

# CA Professional Level

## Taxation- II

ICAB Application Level Suggested Answer  
May June 2011 to May June 2018



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**Taxation-II**  
**May-june-2011**

*Questions solved in accordance with the provisions of Finance Act-2013 / law implications of assessment year 2013-2014)*

**Question No. 1**

Write short notes on the following:

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- (a) Royalty
- (b) Speculative Business
- (c) Transfer
- (d) Amalgamation
- (e) Market value.

**Answer to the Question No. 1**

**(a) Royalty**

As per section 2(56) of the ITO 1984, "royalty" means consideration (including any lump sum consideration but excluding any consideration which is classifiable as income of the recipient under the head "Capital Gains") for –

- i. transfer of all or any rights, including the granting of a license in respect of a patent, invention, model, design, secret process or formula, or trade mark or similar property;
- ii. the imparting of any information concerning the working of, or the use of, a patent, invention, model, design, secret process or formula, or trade mark or similar property;
- iii. the use of any patent, invention, model, design, secret process or formula, or trade mark or similar property;
- iv. the imparting of any information concerning technical, industrial, commercial, or scientific knowledge or experience or skill;
- v. the transfer of all or any rights, including granting of a license, in respect of any copy right, literary, artistic or scientific work, including films or video tapes for use in connection with television or tapes for use in connection with radio broadcasting, but not including consideration for sales, distribution or exhibition of cinematograph films; or
- vi. the rendering of any services in connection with any of the aforesaid activities.

**(b) Speculative Business**

As per Section 2 (61) "Speculation –business" means business in which a contract for the purchase or sales of any commodity including stocks and shares, is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scripts, but does not include business in which-

- a) a contract in respect of raw materials or merchandise is entered into by a person in the course of his manufacturing or mercantile business to guard against loss through future price fluctuations;
- b) a contract in respect of stocks and shares is entered into by a dealer or investor therein to guard against loss in his holdings of stocks and shares through price fluctuations; and
- c) a contract is entered into by a member of a forward market or stock exchange in course of any transaction in the nature of jobbing or arbitrage to guard against loss which may arise in the ordinary course of business as such members;



(c) **Transfer**

Section 2(66) defines "Transfer" as under :

"Transfer" in relation to a capital asset, includes the sale, exchange or relinquishment of the asset, or the extinguishment of any right therein, but does not include :

- a) Any transfer of the capital asset under a gift, bequest, will or an irrevocable trust;
- b) Any distribution of the assets of a company to its shareholders on its liquidation; **and**
- c) Any distribution of capital assets on the dissolution of a firm or other association of persons or on the partition of a Hindu undivided family.

(d) **Amalgamation**

Section 2 (2) "amalgamation", in relation to companies, means the merger of one or more companies with another company, or the merger of two or more companies to form one company (the company or companies which so merged being referred to as the amalgamating company or companies and the company with which they merge or which is formed as a result of the merger as the amalgamated company) in such a manner that by virtue of, and for reasons attributable to the merger---

- (a) all the property of the amalgamating company or companies immediately before the merger, becomes the property of the amalgamated company;
- (b) all the liabilities of the amalgamating company or companies immediately before the merger, become the liabilities of the amalgamated company; and
- (c) the shareholders holding not less than nine-tenths in value of the shares in the amalgamating company or companies (other than shares already held therein immediately before the merger by, or by a nominee for, the amalgamated company or its subsidiary) become shareholders of the amalgamated company;

(e) **Market Value**

As per section 2 (40) for the purpose, 'market value' in respect of agricultural produce, means-

- (a) where such produce is ordinarily sold in the market in its raw state or after application to it of any process employed by a cultivator to make it marketable, the value calculated according to the average price at which it has been sold during the year previous to that in which the income derived from such produce first becomes assessable; and
- (b) where such produce is not ordinarily sold in the market in its raw state, the aggregate of-
  - (i) the expenses of cultivation;
  - (ii) the land development tax or rent paid for the lands in which it was grown; and
  - (iii) such amount as the Deputy Commissioner of Taxes finds, having regard to the circumstances of each case, to represent a reasonable rate of profit on the sale of the produce in question as agricultural produce.

**Question No. 2**

The books of ABC Ltd. revealed the following information:

Assessment year	Income / (Loss) from Garment Business	Income / (Loss) from Textile Business	Income / (Loss) from Jute Business
2007 - 2008	500,000	200,000	(1,000,000)
2008 - 2009	800,000	600,000	200,000
2009 - 2010	900,000	(1,200,000)	50,000
2010 - 2011	700,000	200,000	100,000

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### Answer to the Question No. 2

ABC Ltd		
<u>Assessment Year</u>	<u>Particulars</u>	<u>Tk.</u>
2007-2008	Income from Garments Business	500,000
	Income from Textile Business	200,000
	Loss from Jute Business	(1,000,000)
	Net Income/(Loss) from Jute business	(300,000)
	<b>Loss from Jute business shall be carried forward to set off against the income from Jute Business</b>	
2008-2009	Income from Garments Business	800,000
	Income from Textile Business	600,000
	Income other than Jute business	1,400,000
	Income from Jute Business	200,000
	Loss from Jute Business brought forwarded from 2007-08 to set off	(300,000)
	<b>Loss from Jute business shall be carried forward</b>	
2009-10	Income from Garments Business	900,000
	Income from Textile Business	(1,200,000)
	Income from Jute Business	50,000
	Loss from Textile business shall be	250,000
	<b>Carried forwarded and set off against the income from Textile Business</b>	
2010-2011	Income from Garments Business	700,000
	Income from Jute business	100,000
	Loss brought forward from 2008-9	(100,000)
	Income/(Loss) from business other than Textile business	700,000
	Income from Textile Business	200,000
	Loss brought forward from 2009-10	(250,000)
	<b>Loss from textile business shall be carried forward and set off against the Income from Textile Business</b>	

### Question No. 3

ABC Ltd. is a publicly traded company carrying on the business of manufacture and sale of jute products. Accounts are maintained on mercantile basis. The audited profit and loss account for the year ended December 31, 2009 disclosed a net profit of Tk.2,510,000. Examination of the books of 15 accounts revealed the following facts:

- A preliminary expenses Tk.50,000 was written off to the profit and loss account.
- One vehicle was purchased during the year for Tk.2,500,000. Depreciation @20% was charged on the cost of the vehicle.
- Depreciation claimed at Tk.1,200,000 including depreciation on a leasehold asset of Tk.1,000,000. The company claimed depreciation on leasehold assets Tk.200,000. The lease rental for the year was Tk.150,000 in respect of the leasehold assets.



- d) Depreciation in respect of all other assets has been claimed as per Income Tax Law.
- e) Interest on loan aggregating to Tk.400,000 has been waived by IFIC Bank during the year which has been credited to the profit and loss account.
- f) Over provision for certain expenses as well as under provision for certain expenses in respect of previous year amounting to Tk.500,000 and Tk.300,000 respectively have been adjusted with the retained earnings brought forward from previous year.
- g) Net profit includes Tk.800,000 representing income from sale of imported products. The company suffered AIT aggregating to Tk.200,000 at import stage at the time of import of jute products.
- h) Entertainment expenses of Tk.120,000 debited to the profit and loss account.
- i) Technical knowhow fee of Tk.300,000 paid to foreign collaborators charged in the accounts.
- j) 50% of sale of manufactured goods is exports.

You are required to compute total income and tax payable by the company for the income year ended December 31, 2009.

### Answer to the Question Number 3

#### ABC Ltd.

(A publicly traded company)

#### Computation of Total Income

Assessment Year-2010-2011

Income Year-2009-210

#### Income from Business or Profession: U/S-28-30

	<u>Amount (Tk.)</u>
Net profit as per Accounts	2,510,000
Less: Interest waived by the bank wrongly credited to the P/L { This is exempted as per section 19 (11) }	400,000
Less: Income from imported jute products (shall be considered U/S- 82C)	800,000
Add: Entertainment expenses (to be considered separately)	120,000
Add: Technical knowhow fee (to be considered separately)	300,000
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	1,730,000
<b>Add: Inadmissible expenses:</b>	
Depreciation over charged on vehicle { As per 3 <sup>rd</sup> sch. Clause 6(a) }	100,000
Depreciation charged on leasehold assets (As it is assumed to be under operating lease and paid rental on the same)	200,000
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Income before charging entertainment & technical knowhow fees	2,030,000
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<b>Less: Admissible expenses:</b>	
Entertainment (As per rule 65)-Note-2	60,600
Technical knowhow fees (As per section 30, clause h)-Note-3	162,400
	-----
<b>Income from manufacturing business including exports</b>	1,807,000
Less: 50% exempted on exports (as per 6 <sup>th</sup> sch. Para—28)	903,500
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<b>Income from manufacturing business</b>	903,500
Income from imported jute products (U/S- 82C) (AIT 200,000/27.5%)	727,273
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**Total Income**

**1,630,773**

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**Calculation of Tax Payable:**

Total Income 1,630,773

Less: Income U/S 82C 727,273

Income other than 82C 903,500

Tax Payable: 903,500 X 27.5% 248,463

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**Workings & Necessary Notes: 01**

**Notes:-1**

- The total income and tax liability of ABC Ltd., is computed in the light of the provisions of Finance Act-2013 i.e. Assessment Year 2013-2014;
- Writing off preliminary expenses is allowed;
- Over provision, under provision for certain expenses and adjusted in opening retained earnings are not relevant in this income year;

**Note:-2**

- Calculation of Entertainment-Rule 65

On first 10 lac profit @ 4% Tk. 40,000

On balance profit .i.e Tk. 1,030,000 @ 2% Tk. 20,600

Total Tk. 60,000

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**Note:-3**

- Technical Know How Fees:  
8% on Tk. 2,030,000 Tk. 162,400

**Question No. 4**

Mr. Azim is a Chartered Accountant in practice. He has the following income for the year ended June 30, 2010:

	Taka
a) Share of income from C.A. Firm	471,518
b) Interest Income (Gross):	
i) From Leasing Company	1,247,502
ii) On Fixed Deposit (Bank)	138,214
iii) On Saving Account (Bank)	53,790
c) Dividend Income (Gross)	11,350
d) Shop Rent	13,200
e) Directors Fee	65,000



f) Income from ICAB as Examiner Fee	174,325
g) Income from Sundry Business	55,440
h) Capital Gain:	
i) Profit on Sale of shares of Private Ltd. Co.	6,050,000
ii) Sale of Shop (deed value Tk.192,500, original cost Tk.27,750, Tax deducted at source at the time of registration Tk.3,850 to be assessed u/s 82C)	
iv) Profit on Sale of Shares on publicly listed company	3,430,501

He has investment of Tk.328,000 on purchase of BSP and life Insurance premium.

He has paid an amount of Tk.150,000 as advance tax.

His last slab of Tax is @25% during the assessment 2009□2010.

Compute the total income and Tax payable by Mr. Azim.

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**Answer to the Question No. 4**

**Mr. Azim**

**Computation of Total Income**

**Income year 2009-2010**

**Assessment Year 2010-2011**

**Income from House Property (U/S: 24-25)**

Shop Rent	13,200	
Less: Repair & Maintenance 30%	3,960	9,240

**Income from Business or Profession: U/S: 28-29**

Share of Income from CA Firm	471,518	
Income from Sundry Business	55,440	526,958

**Capital Gain: U/S: 31-32**

Profit on Sale of Shares of Private limited co.

6,050,000

Sale of Shop

164,750

Profit of Sale of Shares of PLC 3,430,501

(Fully exempted as per SRO 269 of 2010)

6,214,750

**Income from Other Sources: U/S: 33-34**

Interest Income from Leasing Company	1,247,502
Interest Income on Fixed Deposit (Bank)	138,214
Income from Saving Account (Bank)	53,790



Dividend Income 11,350		
Less: <u>Exemption 10,000</u>	1,350	
Director fee	65,000	
Income from ICAB as Examiner Fee	174,325	
		1,680,181
<b>Total Income</b>		<b><u>8,431,129</u></b>

**Calculation of investment allowance(under Part B 6th schedule):**

Investment in BSP and LIP	328,000
<b><u>Allowable investment allowance(u/s-44):</u></b>	
Actual investment	328,000
30% of total income [excluding employer's contribution to RPF and interest thereon (as par para-4, part-B 1st schedule), income u/s-82C]. Hence 30% on Tk. (8,431,129-164,750).	2,479,914
Maximum allowable investment	15,000,000
Lower of the above	<b><u>328,000</u></b>

**Computation of tax liabilities**

On total income including the Capital gain of Tk.6,214,750

On first	220,000	@	0%	-
On next	300,000	@	10%	30,000
On next	400,000	@	15%	60,000
On next	300,000	@	20%	60,000
On next	<u>7,211,129</u>	@	25%	<u>1,802,782</u>
<b>Total</b>	<b><u>8,431,129</u></b>			
		<b>Gross tax liability</b>		<b><u>1,952,782</u></b>

On total income other than Capital gain of Tk.6,214,750

On first	220,000	@	0%	-
On next	300,000	@	10%	30,000
On next	400,000	@	15%	60,000
On next	300,000	@	20%	60,000
On next	996,379	@	25%	249,095
	<i>sub-total</i> 2,216,379			
On Capital Gain	6,214,750	@	15%	932,213



<b>Total</b>	<u><b>8,431,129</b></u>	
	<b>Gross tax liability</b>	<u><b>1,331,308</b></u>
<b>Lower of the above two calculation is Gross Tax Liability</b>		<b>1,331,308</b>
Less: Tax on Share of income from Partnership firm @ average rate (1,331,308 / 8,431,129 * 471,518)		74,454
Less: 15% Rebate on investment Tk 328,000		<u>49,200</u>
<b>Less:</b>		<b>1,207,653</b>
TDS U/S 82 © on sale of shop 3,850		
TDS on Dividend @ 10% 1,135		
TDS on Interest 143,951		
Advance Tax paid <u>150,000</u>		<u>298,936</u>
	<b><u>Net tax liability</u></b>	<b><u>908,717</u></b>

#### 1. Sale of Shop:

<b>Tax deducted at Source</b>	3,850
Grossed up income U/S 82 C	25,667
Actual gain (192,500 - 27,750)	164,750
<i>(Excess amount over the grossed income</i>	
<i>U/S 82C i.e. (164,750-25,667) 139,083</i>	
<i>shall be liable to tax U/S 82C of</i>	
<i>Sub-Section- 6)</i>	

2. It is assumed that the capital gain from sale of shop is arrived after 5 years of purchase

3. It is also assumed that gain from the sale of private limited companies shares arrived after 5 years of purchase.

4. It is assumed that Interest on leasing company, fixed deposit and saving bank triggered for TDS @ 10% i.e. Tk. 143,951

#### Question No. 5

- (a) Calculate the total income of Mr. Azad from the following if he is i) a Resident and ii) a non-Resident for income year 2008-2009. 5

Bangladeshi Income:

Salary income	Tk. 89,000
Interest on 10% less tax commercial securities	Tk. 1,20,000
Income from partnership Firm	Tk. 20,000
Agricultural income	Tk. 50,000

Foreign Income:

Income from business in Singapore	Tk. 50,000
Income from Partnership Firm in Pakistan	Tk. 60,000



- (b) Discuss in the form of a Chart showing Income Tax Authorities under the category 2
- Administrative
  - Judicial
- (c) Explain the aspects relevant to formation, qualification of members and functioning of Appellate Tribunal.

**Answer to the Question No. 5**

a)

**Mr. Azad**

**Computation of Total Income**

**Income year 2008-2009**

**Assessment Year 2011-2012**

**I) When he is a Resident**

**Head of Income**

**TK**

**TK**

**Bangladeshi Income:**

Salary Income  
Interest on 10% Less tax commercial  
Securities

89,000  
120,000

Income from Partnership firm

20,000

Agricultural Income

50,000

279,000

**Foreign Income:**

Income from Business in Singapore

50,000

Income from Partnership firm in Pakistan

60,000

110,000

**Total Income as a resident**

**389,000**

**ii) When he is a non Resident:**

**Bangladeshi Income**

Salary Income  
Interest of Less tax commercial Securities  
Income from Partnership firm  
Agricultural Income

89,000  
120,000  
20,000  
50,000

279,000

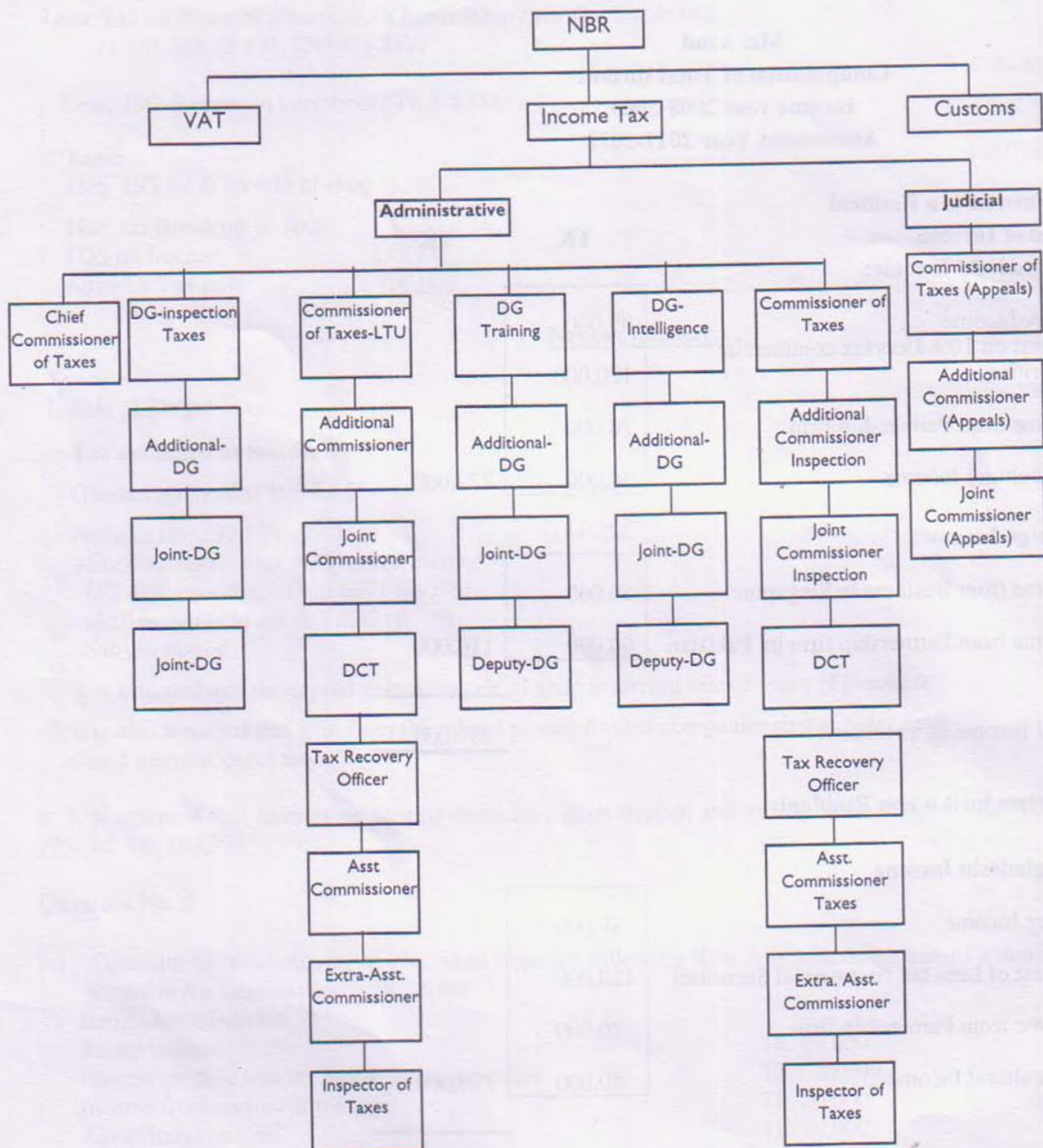
**Total Income as a non resident**

**279,000**



b) Organization Structure of Income Tax Authorities both Administrative and Judicial  
Income Tax Authorities

Organization Structure





**c) Formulation, Qualification and Function of Appellate Tribunal [Sec 11]:**

- (1) For the purpose exercising the functions of the Appellate Tribunal under the Ordinance, the Government shall establish a Taxes Appellate Tribunal consisting of a President and such other members as the Government may, from time to time, appoint [Section 11(1)].
- (2) A person shall not be appointed as a member of the Taxes Appellate Tribunal unless-
  - (i) he was or is a member of the Board; or
  - (i) he was Commissioner of Taxes; or
  - (ii) he is commissioner of Taxes; or
  - (iv) he is a chartered accountant and practiced professionally for a period not less than 8 years; or
  - v) he is a cost and management accountant and practiced professionally for a period not less than 8 years; or
  - (vi) he is an income-tax practitioner within the meaning of section 174(2)(f) and practiced professionally for a period not less than 20 years; or
  - (vii) he is a professional legislative expert having experience for a period not less than 8 years in the process of drafting and making financial and tax laws; or
  - (viii) he is an advocate and practiced professionally for not less than 10 years in any income-tax office. [Section 11(3)]
  - (ix) he is, was or has been a District Judge.
- (3) The Government shall appoint a member of the Appellate Tribunal to be the President thereof [Section 11(4)].

**Exercise of Power of the Tribunal by Benches [Sec 12]:**

- (1) Unless the president in any particular case or class of cases otherwise directs, the powers and functions of the Appellate Tribunal shall be exercised by Benches of the Appellate Tribunal, hereinafter referred to as Bench, to be constituted by the President.
- (2) A Bench shall be so constituted that it has not less than two members.

**Decision of Bench [Sec 13]:**

- (1) Subject to the provisions of sections 13(2) and (3), the decision of bench in any case or on any point shall be given in accordance with the opinion of the majority of its members.
- (2) Any point on which the members of a Bench are equally divided shall be stated in writing and shall be referred by the president to one or more other members of the Appellate Tribunal for hearing and the point shall be decided according to the majority of the members of the Appellate Tribunal who have heard it including those who first heard it.
- (3) Where there are only two members of the Appellate Tribunal and they differ in any case, the Government may appoint an additional member of the Appellate Tribunal for the purpose of hearing of the case and the decision of the case shall be given in accordance with the opinion



of the majority of the members of the Appellate Tribunal as constituted with such additional member.

**Exercise of Power by one Member [Sec 14]:**

Notwithstanding anything contained in section 12, the Government may direct that the powers and functions of the Appellate Tribunal shall be exercised by any one of its member, or members or by two or more members jointly or severally.

**Question No. 6**

On 30th June 2008 Mr. Alam has the following investments:

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- i) Tk.80,000, 10% Company Debenture
- ii) Tk.50,000, 8% Treasury Bond, tax free
- iii) Tk.25,000, 12% Port Trust Debenture
- iv) Tk.40,000 12% Commercial Securities
- v) Income from Government Securities Tk.30,000 @8% interest.

On 1st January 2008 Mr. Alam sold Tk.40,000, 10% Company Debenture with which he purchased 12% Commercial Securities. He also took a loan of Tk.20,000 from a Bank to purchase commercial securities at the rate of 10% interest. The bank commission for the purchase and sale of securities amounted to Tk.100. He also paid Tk.200 as bank charge for collecting interest.

Calculate income from securities of Mr. Alam.

**Answer to the Question No. 6**

**Mr. Alam**

Assessment year 2008-2009

Income Year 2007-08

**Computation of Income from Interest on Securities**

**Head of Income**

**TK.**

**TK.**

ii) Interest on treasury bond, tax free

4,000

Less: Exemption Full

4,000

iii) Interest of Port trust debenture

3,000

Less: Admissible expenses: Bank Commission &  
Charges:  $300/22,200 \times 3000$

41

2,959

iv) Interest from Commercial Securities

4,800

Less: Admissible expenses: Bank Commission &  
Charges  $300/22200 \times 4800$

65



Less: Interest on loan ( 20,000 \*10%)

2,000

2,735

v) income from Govt Securities

2,400

Less: Admissible expenses: Bank Commission &  
Charges 300/22,200\*2400

32

2,368

Income from interest on Securities

8,062

### Notes: 1

Total interest of Investment collected by Bank

Company debenture

8,000

Int. on tax free treasury bond

4,000

Int. on port trust debenture

3,000

Int. from approved commercial securities

4,800

Income from Govt. Securities

2,400

22,200

### Notes: 2

1. Commission and Bank Charges are distributed on only to the taxable Debenture and Securities in proration of the income. However, bank charges and commission on the interest of treasury bond which is tax free not charged in above calculation.
2. Since 10% Company Debenture sold on 1<sup>st</sup> January 2008, no interest there on is considered as income.

### Question No. 7

- a) What are the different types of Depreciation allowances allowed under Income Tax Ordinance 1984? 2
- b) Explain "Unabsorbed Depreciation". 5
- c) A factory building was constructed in the year 2005 having a total cost of Tk.2,00,000. It as insured for Tk.2,10,000. In the month of January 2006 it was destroyed by fire. The scrap as sold at Tk.10,000. Till the year 2008-2009 assessment year, depreciation of the building was charged at Tk.60,000. Under the following conditions find out balancing depreciation: 8
  - i) if 100% insured amount could be recovered from insurance company.
  - ii) if 75% of insured amount could be recovered from insurance company.
  - iii) if 50% of insured amount could be recovered from insurance company.



### Answer to the Question No. 7

a) Different types of Depreciation allowances allowed under Third Schedule of Income Tax Ordinance 1984:

- Normal depreciation allowance;
- Initial depreciation allowance;
- Accelerated depreciation allowance;
- Special depreciation allowance on ship.

b) When full effect of the depreciation as determined in accordance with provision of the Third Schedule of the Income Tax Ordinance 1984 cannot be given that part of the depreciation is called "**Unabsorbed Depreciation**"

In other way, where, in making an assessment for any year, full effect cannot be given to the depreciation allowances referred to in section 29(1) (viii) owing to there being no profits or gains chargeable for that year or such profits or gains being less than the allowance then, subject to the provisions of sub-section (7), the allowance or part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of the allowance for depreciation for the following year and be deemed to be part of that allowance or if there is no such allowance for that year, be deemed to be the allowance for that year and so on for succeeding years. Where, under section 42(6), depreciation allowance is also to be carried forward, effect shall first be given to the provisions of sections 38 and 39(2).

c)	Cost value of the factory building -	200,000
	Depreciation -	60,000
		-----
	Written down value (WDV)	140,000
	Scrap was sold	10,000
	Insured amount	210,000
i)	If 100% insured amount could be recovered from insurance company i.e	210,000
	Less: WDV	140,000
		-----
	Total Gain	70,000
	Capital Gain (210,000-200,000)	10,000
		-----
	Business Gain	60,000
ii)	If 75% insured amount could be recovered from insurance company i.e	157,500
	Less: WDV	140,000
		-----
	Total Gain	17,500
	Capital Gain (157,500-200,000)	nil
		-----
	Business Gain	17,500



iii) If 50% insured amount could be recovered from insurance company i.e	105,000
Less: WDV	140,000
	-----
Total Gain/(Loss)	(35,000)
Capital Gain (105,000-200,000)	
	-----
Business Gain/(Loss)	(35,000)

#### Question No. 8:

- |  |   |
|--|---|
| a) Give some argument for and against Value Added Tax (VAT).                     | 2 |
| b) What are the duties and responsibilities of VAT assessee?                     | 2 |
| c) What books of accounts are required to be maintained under VAT Act and Rules? | 2 |
| d) What are procedures of VAT Registration?                                      | 2 |
| e) What are the goods and services subject to VAT in Bangladesh?                 | 2 |

#### Answer to the question number 8:

a)

#### Argument For VAT:

Proponents of VAT give a number of arguments as to the merits of VAT. Some of the Important Points are given as follows:-

- i. It increases the cost of consumption, thus stimulating savings and investment.
- ii. The government gets its money earlier; it does not have to wait until after the final sale.
- iii. It is used to stimulate exports; the exporter gets 100% rebate for the tax paid.
- iv. Importers pay the VAT based on the prices of their imports. The tax is paid on goods purchased, whether manufactured domestically or imported. Thus imported goods are not given an advantage over locally manufactured products.
- v. It catches service companies, which historically have been exempted from sales taxes. A service company shall charge tax to its customers in order to recover the tax paid on its purchases of supplies and equipment.
- vi. It opens up avenue for collection of more revenue for socio-economic development of a country.
- vii. Its scope is wider and resists distortion in production and consumption.
- viii. It provides a good system of rebate and refund which prevents tax on tax.
- ix. It provides a psychological advantage to the tax payers in that the tax payers pay out in installment.



### Arguments Against VAT:

- i. Increase of price level: When VAT imposed the price of the articles also increase.
- ii. Increase of service price: When VAT imposed on the services the price increases of the services more than the proportion.
- iii. Increases of production cost of small industries: When VAT imposed on handicraft and small industries their production cost increases.
- iv. Burden on poor people: VAT burdens the poorest and least influential sections of society more than other forms of tax. As the poor have lower incomes, more of their income is consumed by consumption. The higher the prices of consumption goods, the less money that the poor can save, and the less able they are to improve their conditions.
- v. Expensive to business men: It increases the expenses of businessmen because they have to keep regroup books and accounts for this purpose.

### B)

A VAT assessee needs to pay tax, maintains account and document properly. To this end his duties and responsibilities are as follows:-

- i) To ascertain tax liability through current account at the time of supply of goods and deposit relevant tax to the exchequer.
- ii) To submit VAT return and to pay VAT on time;
- iii. To fill up and make entry in current account, purchase and sale account and transfer the relevant items in concerned books and documents periodically.
- iv. To deposit relevant books and account to tax authority in due time.
- v. To keep in safe custody all accounts and books relevant to VAT at least for 4 years.
- vi. To produce relevant books and account to tax authority.
- vii. To allow tax officials to enter into his business premise.
- viii. To maintain invoice to ensure refund and rebate of tax.
- ix. To supply invoice to purchaser at the time of supply of goods.

### c)

The following books and documents shall be maintained by a VAT tax payer:-

- (a) Purchases Register in Form VAT-16;
- (b) Sales Register in Form VAT-17;
- (c) Current Account in Form VAT-18;
- (d) Invoices in Form VAT-11 or 11A;
- (e) Paid Treasury Challans;
- (f) VAT Return in Form VAT-19; and



These books and documents shall be maintained for at least 4 years.

d)

Procedures of Registration under VAT: Sec 15

- 1) A supplier of taxable goods, provider of taxable services, importer, exporter of goods and service shall be registered with the concerned VAT officer in accordance with the procedures prescribed by Rule of this VAT Act.
- 2) If any person supplies taxable goods or render taxable services or carries on import-export trade from two or more places, he shall be registered separately for each place.
- 3) If the concerned VAT officer is satisfied that the application for registration is in order in all respects, he shall register the applicant and issue a registration certificate mentioning therein his Business Identification Number (BIN);
- 3a) Notwithstanding anything contained in this section, validation of this certificate to be determined by the rules and such registration certificate may be renewed in accordance with the Rules itself;
- 4) Upon inquiring by the concerned VAT officer, if any person is found that he is not registered but he is required to be registered under this Act, the VAT officer shall register the person with effect from the date wherefrom it is obligatory to him;
- 5) Every registered person shall be provided unified registration number.

e)

- (1) Value Added Tax will be imposed and payable @ 15% on all goods imported into Bangladesh except the goods listed in the First Schedule of this Act and on the supply of all goods not listed in above Schedule and on all services listed in Second Schedule.
- (2) Without prejudice to the above sub-section (1) Zero rate tax will be imposed on the following goods or services;
  - a. Any goods or services exported or deemed to be exported from Bangladesh.
  - b. Food and other things supplied in transport leaving from Bangladesh for consumption outside Bangladesh in accordance with section 24 of the Customs Act. 1969 (of 1969).

Provided that this sub-section shall not be applicable to the following goods;

- a. Any goods re-imported or intended as being re-imported into Bangladesh.
- aa. Any goods or services or part of it supplied in exchange of foreign currencies for consumption or use in Bangladesh which are not mentioned in clause (aa) above;
- c. Such goods which have been presented for export in accordance with section 131 of the customs Act but not exported within thirty days of the bill of export or such extended time allowed by the Commissioner for this purpose.

#### Question No. 9:

A manufacturer sold goods worth Tk.10 lakh to the wholesaler by including to it VAT@15%. The wholesaler added 10% as mark up and sold the goods to the retailer by adding VAT who in turn sold the goods to the consumer by adding mark up @15%.

Compute VAT at each stage and indicate the total VAT paid by the consumer.

10



## Answer to the question number 9

### Computation of VAT at different stage:

Persons	Input Stage		Output Stage				Rebate	Payable to Treasury
	Import/ Purchase Price	VAT @ 15%	Total Purchase including VAT	Value addition including profit	Sales Value	VAT @ 15%		
<b>Manufacturer</b>					1,000,000	150,000		150,000
<b>Wholesaler</b>	1,000,000	150,000	1,150,000	100,000	1,100,000	165,000	150,000	15,000
<b>Retailer</b>	1,100,000	165,000	1,265,000	165,000	1,265,000	189,750	165,000	24,750
<b>Customers</b>	1,265,000	189,750	1,454,750	-	-	-	-	



## Taxation- II

Nov- Dec 2011

### Question No. 1

1. Write short notes on the following in relation to I.T.O. 1984 10
- (a) Assessment on the basis of report of a Chartered Accountant: u/s 83 AAA
  - (b) Carry forward of loss under the head "Capital Gains": u/s 40.
  - (c) Revisional power of the Commissioner of Taxes: u/s 121A.
  - (d) Interest payable by the government on delayed refund: u/s 151.
  - (e) Rent free accommodation Rule: 33B

### Answer to the Question No. 01

- (a) Assessment on the basis of report of a Chartered Accountant: u/s 83 AAA

When NBR has reasonable cause to believe that a return submitted by any company assessee is incorrect or incomplete, then the Board may appoint a chartered accountant to examine the books of accounts of that company.

He will then exercise the powers and functions of a DCT only relating to section 79 and other than clause (f) of section 113. After examination of the books of accounts he will submit report to the Board and the Board will then forward the report to the DCT for consideration. After receiving the report DCT will proceed to assess the income of the company by issuing notice u/s 83(1)

- (b) Carry forward of loss under the head "Capital Gain": u/s 40.

Loss under the head "Capital Gain" can be set-off against income from the same head during the income year. If the loss cannot be set-off in the above manner, the loss or portion thereof can be carried forward to the next assessment year and set-off against income under the same head in that year. The loss can be carried forward up to 6 successive assessment years.

Loss up to Taka 5,000/- cannot be carried forward. Amount in excess of Taka 5,000/- can only be carried forward and set-off in the aforesaid manner.

- (c) Revisional power of the Commissioner of Taxes: u/s 121A.

An assessee may file revision petition before the Commissioner of Taxes within sixty days of receipt of Order of the Deputy Commissioner of Taxes or Appellate Joint or Additional Commissioner of Taxes on payment of fees of Taka 200/- along with payment of admitted tax liability. Revision petition will be deemed to have been allowed if the commissioner fails to give judgment within sixty days from the date of filing the revision application.

- (d) Interest payable by the government on delayed refund: u/s 151.

Where a refund due to an assessee is not paid within two months of the date of claim of refund, interest @ seven and a half per cent per annum shall be payable to the assessee on the amount of refund from the month following the aforesaid two months to the date of issue of the refund.

- (e) Rent free accommodation Rule: 33B



(i) Where the employee is provided with rent free accommodation, the rental value of the accommodation or twenty five per cent of the basic salary of the employee, whichever is less, shall be included in his income.

(ii) Where the accommodation is provided to the employee at a concessional rate, the difference between the rent actually paid by him and the amount determined to be includible in an employee's salary under rule (1) shall be added to his income.

## Question No. 2

10

Discuss in details regarding the insertion of new section 82C in place of existing section 82C termed as final discharge of tax liability by the Finance Act 2011.

**Ans:-** The following new items added through Finance Act, 2011:

- (1) Tax deducted or collected at source from the sources mentioned in sub-section (2) shall not be adjusted against refund due for earlier year or years or refund due for the assessment year from any source other than those mentioned in sub-section (2).
- (2) Income from the sources mentioned in sub-section (2) shall be determined on the basis of the tax deducted or collected at source and the rate or rates of tax applicable for the assessment year.
- (3) Income computed in accordance with sub-section (4) shall not be set off with loss computed under any other source for the assessment year or with loss of earlier year or years.
- (4) Any income shown or assessed in excess of the amount determined in sub-section (4) shall be liable to tax at the rate or rates applicable for the assessment year.
- (5) Any amount not admissible as allowances under section 30 shall be added to the income.
- (6) Excess Income referred to in sub-section (6) and (7) shall be taxable at the rate or rates applicable for the year after determining income under sub-section (4).
- (7) The assessee shall have to pay surcharge where applicable.

## Question No. 3

3. RFL Co. Ltd. owns and maintains 10 tea estates in Chittagong. It sells the tea after processing in its manufacturing plants within the estates. For the financial year ending December 31, 2010 it has produced the following information:

25

	Taka
Opening stock of tea (Valued at net sales prices)	80,00,000
Closing stock of tea (Valued at net sales prices)	90,00,000
Sales (30% domestic, 70% export)	12,40,00,000
Sale of bamboos and other bushes	20,00,000
Sale of old shade and other trees	90,00,000

Common expenditure apportioned between agriculture and business on the basis of workers employed are:

	Agriculture Taka	Business Taka
Manufacturing expenses	7,50,00,000	1,60,00,000



Besides selling expenses of Tk. 18,60,000 have been incurred during the year. Depreciation on plant and machinery, furniture, factory and office buildings including banglows have been included in above manufacturing expenses of Tk. 80,00,000 and Tk. 20,00,000 relate to agriculture and business respectively. The company spent Tk. 30,00,000 during the year to bring new areas under its cultivation while nothing has been spent on replacement of bushes. It is company policy capitalize those expenditure. There are no other inadmissible expenses. Tax WDV of fixed assets are follows:

	Agriculture Taka	Business Taka
Banglows other structure	2,30,00,000	1,50,00,000
Plant and machinery	3,50,00,000	6,90,00,000
Furniture, Equipment etc	30,00,000	60,00,000
Vehicles and Tanks	1,05,00,000	60,00,000
Tubewell	23,00,000	-
Pucca Irrigation works	8,00,000	-
Pucca pumping machine	30,00,000	-

Calculate the taxable income of RFL Co. Ltd. for the relevant assessment year assuming that it has no brought forward agricultural or business losses but has unabsorbed depreciation of Tk. 2,44,00,000 under the head agriculture.

### Answer to the Question No. 03

	Taka
Sales	12,40,00,000
Closing stocks	90,00,000
Opening stocks	(80,00,000)
Value of produce	<u>12,50,00,000</u>

### Apportionment between agriculture and business in the ration 60:40 (Rules 31)

	Agriculture Taka	Business Taka
Sales	7,50,00,000	5,00,00,000
Sale of Bamboos etc.	-	20,00,000
Sale of Shade trees etc.	90,00,000	-
	8,40,00,000	5,20,00,000
	80,00,000	20,00,000
	9,20,00,000	5,40,00,000
Deduct: Manufacturing expenses	6,70,00,000	1,40,00,000
Administrative expenses	50,00,000	80,00,000
Development expenses	30,00,000	-
Selling expenses	-	18,60,000
Depreciation (calculation below)	86,35,000	2,08,00,000
Adjusted profit	83,65,000	93,40,000



Banglows	Plant	Equipt.	Tanks	Tubewell	Irrigation		Pumps	Total Allowances
Tk.	Tk.	Tk.	Tk.	Tk.	Tk.		Tk.	Tk.
10%	10%	25%	10%	15%	5%		20%	-

WDV SF	2,30,00,000	3,50,00,000	30,00,000	1,05,00,000	23,00,000	18,00,000	30,00,000	
WDA	23,00,000	35,00,000	7,50,000	10,50,000	3,45,000	90,000	6,00,000	86,35,000
WDA	2,07,00,000	3,15,00,000	22,50,000	94,50,000	19,55,000	17,10,000	24,00,000	

Carried  
Forward

#### Depreciation Allowances - Business

	Structures	Plant	Furniture	Vehicles	Total Allowances Tk.
	Tk.	Tk.	Tk.	Tk.	
	20%	20%	10%	20%	
WDV SF	1,50,00,000	6,90,00,000	60,00,000	1,70,00,000	
WDA	30,00,000	1,38,00,000	6,00,000	34,00,000	2,08,00,000
2WDA	1,20,00,000	5,52,00,000	54,00,000	1,36,00,000	

Carried Forward

#### Summary of assessments - Assessment year 2011-2012

	Taka
Agricultural income	83,65,000
Unabsorbed depreciation carried forward	<u>83,65,000</u>
Agricultural Income	0
Business income	<u>93,40,000</u>
Total Income	<u>93,40,000</u>
Unabsorbed depreciation Brought Forward	2,44,00,000
Set off	<u>(83,65,000)</u>
Remains	<u>1,60,35,000</u>

Notes:

- (1) Valuation of closing stock in the case of plantation companies on net realizable basis is an acceptable method as per IAS-2 (Inventories).
- (2) Bamboos and other bushes naturally grown without any agricultural effort or skill employed and the income thereon being treated as business income.
- (3) Shade and other trees in tea garden are systematically planted and nurtured for growth and as such full agricultural skill is employed.



(4) Expenditure in respect of developing new area for future tea cultivation is fully allowable as per rule 31, though the company has capitalized this.

(5) Unabsorbed depreciation of previous year's agricultural loss can only be carried forward and set off against this year's agricultural income

(6) Rule 31 provide the apportionment mechanism for income but not the expenditure which are generally not separated in the tea garden between agriculture and business. However, for the sake of convenience apportionment for these expenditure not on the basis of employees / workers has been made.

#### Question No. 04

- 4 Mr. X an employee of a limited company, received the following salaries and allowances during the income year ended 30 June, 2013 10

	Taka
1. Basic Salary	4,20,000
2. House Rent allowances	2,00,000
3. Festival Bonus equal to two months basic salary	70,000
4. Leave encashment Salary	35,000
5. Conveyance allowance	24,000
6. Contribution to Recognized Provident fund @ 8%	33,600
7. Servant Wages	24,000
8. Children education allowance	60,000
9. Leave fare assistance	50,000
10. Banglow utilities	25,000

Compute excess perquisite u/s 30(e) for the assessment year 2013-2014.

#### Answer to the Question No. 04

Mr.X  
Employee of a Limited Co.  
Calculation of perquisites u/s. 30(e)  
Assessment year 2013-2014

Perquisites	Taka
1. House Rent allowances	2,00,000
2. Conveyance allowance	24,000
3. Servant Wages	24,000
4. Children education allowance	60,000
5. Banglow utilities	25,000
	3,33,000
Allowable perquisites	2,50,000
Excess perquisites	0



### Question No. 05

- (a) A refund of tax becomes due to an assessee on reduction of total income in appeal filed by him, but the Deputy Commissioner of Taxes does not take any action to make the refund. What are the remedies open to the assessee? 4
- (b) Discuss the Modes of recovery by the Tax Recovery Officer 6
- (c) A Private Limited Company is wound up but tax assessed on the company remains unpaid. Discuss the personal liabilities of the Directors of the Company in respect of the unpaid tax of the company. 5

### Answer to the Question No 05

- (a) As per section 151, where a refund due to the assessee is not paid within two months from the date of refund becoming due consequent upon any appeal order, interest @ 7.5% per annum shall be payable to the assessee on the amount of refund from the end of the said two months upto the date of refund.

On the other hand, as per section 152, the assessee may set off the refundable amount against the tax payable under Income Tax Ordinance or treated, at the option in writing of the assessee, as payment of tax payable under section 64 or section 74 as the case may be.

- (b) 1. As per section 139 of Income Tax Ordinance 1984, the Tax Recovery Officer upon receipt of a certificate forwarded by the DCT, shall take one or more of the following steps to recover the amount as stated in the certificate:
- (i) attachment and sale, or sale without attachment, of any movable or immovable property of the assessee;
  - (ii) arrest of the assessee and his detention in prison;
  - (iii) Appointment of a receiver for the management of the movable and immovable properties of the assessee.

If the Tax Recovery Officer is not able to recover entire amount, he may send the certificate to other Tax Recovery Officer, where he has information that the assessee has property or resides.

- (c) (i) As per section 100 of Income tax Ordinance, 1984, where any private limited company is wound up and any tax assessed on the company, whether before, or in the course of, or after its liquidation, in respect of any income of any income year cannot be recovered, every person who was, at any time during the relevant income year, a director of that company, shall, notwithstanding anything contained in the Companies Act, be jointly and severally liable to pay the said tax.
- (ii) But the liability of the director(s) of a private company shall cease if he proves to the DCT that non-recovery of tax from the company cannot be attributed to any gross negligence, misfeasance or breach of any duty on his part in relation to affairs of the company.



### Question No. 06

6. State the provision of law for tax clearance certificate required for persons leaving Bangladesh. 5

### Answer to the Question No. 06

According to section 107 of ITO 1984

A person who is not domiciled in Bangladesh, or a person who being domiciled in Bangladesh at the time of his departure is not, in the opinion of an income tax authority likely to return to Bangladesh, shall not leave Bangladesh without obtaining from the Deputy Commissioner of Taxes authorized in this behalf by the Board. -

- (a) a tax clearance certificate, or
- (b) if he has the intention of returning to Bangladesh, an exemption certificate which shall be issued only if the Deputy Commissioner of taxes is satisfied that such person has such intention; and such exemption certificate may be either for a single journey or for all journeys within the period specified in the certificate.

### Question No. 07

7. Enumerate the penal measures for 6
- a) Failure to file return u/s 75 :
  - b) Failure to pay Taxes u/s 74 :
  - c) For furnishing inaccurate particulars of income

### Answer to the Question No. 07

Particulars	Penalty
Failure to file return u/s 75 : (According to section 124 of ITO 1984)	Penalty amounting to 10% of last assessed tax subject to minimum of Tk. 1,000/ and a further sum of Tk. 50 for everyday of continuing default.
Failure to pay Taxes u/s 74 : (According to section 127 of ITO 1984)	If tax paid u/s 74 is less than 80% of the payable amount then 25% of the short fall (maximum). If 80% is covered then no penalty.
For furnishing inaccurate particulars of income (According to section 128 of ITO 1984)	10% of the tax evasion. If the tax evasion is detected after one year or more then the amount of penalty will increase by additional 10% for each earlier assessment year

### Question No. 08

- (a) Define Input Tax. What are the conditions to be met for claiming input tax? 6
- (b) Discuss the Special Treatment of Specified "Input tax" and the penalty for False Declaration for Input Tax. 5



### Answer to the Question No. 08

- (a) Input tax is VAT paid by a tax payer on his inputs, that is, all raw materials, packing materials, services, fuel, machinery, spare parts, and all purchased goods for sales. However, inputs do not include labour, land, buildings, office equipment, vehicles and their construction or maintenance materials and insurance relating thereto.

Conditions to be met for claiming Input Tax

The following conditions are to be met for claiming input tax credit:

- (i) The Tax payer must have been registered for the purposes of "full" VAT, not turnover tax or not VAT based on estimated value addition.
- (ii) The Tax payer must have Bill of Entry for imports and VAT Invoices (VAT-II) for local purchases of goods and services, maintained for 4 years. No credit for input tax shall be allowed against turnover tax or VAT based on estimated value addition.
- (iii) The Tax payer must declare the inputs in Price Declaration including output/ input ratio.
- (iv) The Tax payer must claim the input tax within the related year. However, claim for input tax may be allowed after the related year if there is any genuine reason.
- (v) The Tax payer must process the inputs for which input tax has been claimed.
- (vi) The Tax payer can claim credit against VAT only, not import duty, supplementary duty and/or income tax at source.

However, an exporter can claim credit against import duty and/or supplementary duty under "duty exemption and drawback" (generally known as DEDO) arrangement under rule 19(4).

- (b) Special Treatment of Specified "Input Tax"

The Tax payer can claim 60% of the VAT paid as claim against input tax in respect of charges for telephone, teleprinter, fax, internet, freight forwarders, clearing & forwarding agents, WASA, insurance, audit and accounting firms, suppliers, security services, carrying agents, letter of credit services, electricity and other related taxable services.

Penalty for False Declaration for Input Tax

If a tax payer makes false declaration relating to credit of input tax, he may be penalized under section 37 of the VAT Act, 1991 to the extent of at least the tax evaded and at best 2.5 times of the tax evaded; and also the credit of the input tax shall be cancelled.

### Question No. 09

9. Bata Shoe Co. Ltd. incurred the following transactions in September 2010:

8

Raw materials aggregating to Tk. 5,00,000 were purchased on September OS, 2010, VAT on the same paid and the VAT challan along with the goods were received no September 10, 2010.

Shoes delivered to customers in the month at approved price as follows:

September 08, 2010	Tk.3,00,000
September 09, 2010	Tk. 2,00,000
September 10, 2010	Tk.5,00,000
September 15, 2010	Tk.6,00,000



The following deposits were made to the Govt. Exchequer through treasury challan:

September 07, 2010	Tk. 20,000
September 12, 2010	Tk. 30,000
September 15, 2010	Tk. 70,000

Balance of deposit at September 01, 2010 in VAT -18 was Tk. 50,000.

You are required to :

Enter the above transactions in VAT -18 of the company;

Answer to the Question No. 09

**Current Account**  
(As per Rule 22(1))

Taxpayers' Identification Number:

Name: Bata Shoe Co. Ltd.

Address:

Telephone:

S1. No.	Date	Details of Purchase or Sales Transaction	Register S1. No. Date	Treasury deposit	Rebate	Dues	Closing Balance	
1	2	3	4	5	6	7	8	9
1	01.09.2010	Opening Bl.				50,000		50,000
2	07.09.2010	Treasury		20,000				70,000
3	08.09.2010	Delivery				45,000		25,000
4	09.09.2010	Delivery				30,000		-5,000
5	10.09.2010	Purchase				75,000		70,000
6	10.09.2010	Delivery				75,000		-5,000
7	12.09.2010	Treasury		30,000				25,000
8	15.09.2010	Treasury		70,000				95,000
9	15.09.2010	Delivery				90,000		5,000

*The End*



**Taxation-II**  
**May-June 2012**

**Q-01.** What are the factors to be considered by a Professional Accountant while initiating a formal conflict resolution process

10

**Ans. Q. No. 01**

When initiating either a formal or informal conflict resolution process, a professional accountant should consider the following five factors:

- Relevant facts;
- Relevant parties;
- Ethical issues involved;
- Fundamental principles related to the matter in question;
- Established internal procedures;
- Alternative courses of action.

Having considered these issues, the appropriate course of action can be determined which resolves the conflict with all or some of the five fundamental principles. If the matter remains unresolved, the professional accountant should consult with other appropriate persons within the organization for help in obtaining resolution.

Where a matter involves a conflict with or within, an organization, a professional accountant should also consider consulting with those charged with governance of the organization.

It is advisable for the professional accountant to documents held or decisions taken concerning that issue.

If a significant conflict cannot be resolved, a professional accountant may wish to obtain professional advice from the relevant professional body or legal advisors, and thereby obtain guidance on ethical and legal issues without breaching confidentiality.

If, after exhausting all relevant possibilities, the ethical conflict remains unresolved, a professional accountant should, where possible, remain associated with the matter creating the conflict.

The professional accountant may determine that, in the circumstances, it is appropriate to withdraw from the engagement team or specific assignment, or to resign altogether from the engagement or the firm.

**Q-02** Write Short Notes on the following:

10

- a) Capital Assets
- b) Fair Market Value
- c) Fees for Technical Service
- d) Agricultural Income
- e) Perquisites



**Ans. Q. No. 02**

**a) Capital Assets:**

Capital Assets means property of any kind held by an assessee, whether or not connected with business or profession, but does not include-

- a. Any stock-in-trade (not being stocks and shares) consumable stores or raw materials held for the purposes of business or profession.
- b. Personal effects, that is to say, movable property (including wearing apparel, jewelers, furniture, fixture, equipment and vehicles), which are held exclusively for personal use by, and are not used for purposes of the business or profession of the assessee or any member of his family dependent on him.
- c. Rural agricultural land

**b) Fair Market Value:**

Fair Market Value means, in relation to capital assets-

- a. The price which such asset would ordinarily fetch on sale in the open market on the relevant day, and, where such price is not ascertainable, the price which the Deputy Commissioner of taxes may, with the approval in writing of the Inspecting Joint Commissioner of Taxes, determine.
- b. The residual value received from lessee in case of an asset leased by a financial institution having license from the Bangladesh Bank on termination of lease agreement on maturity or otherwise subject to the condition that such residual value plus amount realized during the currency of the lease agreement towards the cost of the asset is not less than the cost of acquisition to the lessor financial institution.

**c) Fees for Technical Service:**

Fees for Technical Service means any consideration (including any lump sum consideration) for rendering of any managerial, technical or consultancy services but does not include consideration for any construction, assembly, mining or like project undertaken by the recipient, or consideration which would be income of the recipient classifiable under the head "Salaries".

**d) Agricultural Income:**

Agricultural Income means-

- a) any Income derived from any land in Bangladesh and used for agricultural purposes-
  - i) by means of agricultural or
  - ii) by the performance of any process ordinarily employed by a cultivator to render the produce of such land fit to be taken to market or
  - iii) by the sale of the produce raised in the land by the cultivator where no process other than to rendering the produce marketable has been performed or
  - iv) by granting a right to any person to use the land for any period.



b) It also includes any income derived from any building which-

- i) is occupied by the cultivator of such land where any process is carried on to render the produce of land marketable;
- ii) is on or in the immediate vicinity of such land and
- iii) is required by the cultivator for dwelling or storehouse or out house by reason of his connection of such land.

**e) Perquisites:**

There is an exclusive definition of perquisite at section 2(45) where perquisite means any payment or benefit made to an employee in the form of cash or any other form but excluding the following:

- a) Basic Salary
- b) Festival bonus
- c) Incentive bonus
- d) Arrear Salary
- e) Advance Salary
- f) Leave encashment
- g) Leave Fare Assistance (LFA)
- h) Overtime
- i) Contribution by the employer to-
  - i) Recognized provident fund.
  - ii) Approved Pension Fund.
  - iii) Approved Gratuity Fund and
  - iv) Approved Superannuation Fund.

**Q-03** What are the income that are excluded as per the 6th Schedule, Part A of ITO 1984 in computing total income of the following assesses. 6

- a) NGO registered under NGO Bureau
- b) Trust
- c) Religious or Charitable institution

**Ans. Q No. 03**

Issues	Section/Schedule Reference	Income which are excluded
Non Government Organisation (NGO) registered with NGO Affairs Bureau.	Clause 1A of Part - A of 6 <sup>th</sup> chedule	Income derived from Micro Credit Operation by a Non Government Organisation (NGO) registered with NGO Affairs Bureau.
Trust	Clause 1 of Part - A of 6th chedule	Any income from House Property held under trust or other legal obligation wholly for religious or charitable purpose
Religious or Charitable Institution	Clause 2 of Part - A of 6th Schedule	Any income of a religious or charitable institution derived from voluntary contribution and applicable solely to religious or charitable purpose



**Q-04** Discuss the provisions of section 93 of ITO 1984 for assessment in case of income escaping assessment

9

**Ans. Q No. 04:**

If, for any reason, any income chargeable to tax for any assessment year-

- has escaped assessment;
- has been under assessed or;
- has been assessed at too low a rate or;
- has been subject to excessive relief or refund.

The Deputy Commissioner of Taxes may issue a notice to the assessee containing all or any of the requirements which may be included in a notice under section 77 (notice for filling return) and may proceed to assess or determine, by an order in writing, the total income of the assessee and the tax payable by him.

**Rate of Tax:**

The tax shall be charged at the rate or rates applicable to the assessment year for which the assessment is made.

**Special Conditions:**

- i) Action under section 93 cannot be initiated unless definite information has come into the possession of the D.C.T.
- ii) Before initiating the proceeding under section 93 previous approval in writing from the IJCT is to be taken, except in a case where a return has not been filed u/s 75/77
- iii) Notice under section 93 can be issued within 6 years from the end of the assessment year in case it is escaped assessment or under assessment and within 2 years from the end of the assessment year in case it is assessed at too low a rate or has been subject to excessive relief or refund.

**Q - 05.** Mr. Aminullah is a service holder. Following are the particulars of his income, investment and expenditure for the year 2012-13. Compute his income from salary, and tax payable under the following situation:

20

- i) The provident fund is recognized
- iii) The Provident fund is unrecognized
  - a) Basic Salary Tk. 9,000 per month
  - b) Dearness Allowance @ 20% on Basic Salary
  - c) Bonus -two Bonuses @ one month Basic Salary
  - d) Rent Free Quarter (Annual value Tk. 30,000)
  - e) Conveyance Allowance Tk. 1,200 per month
  - f) Medical Allowance Tk. 300 per month (Actual expenses Tk. 2,500)

He contributes 10% of his basic pay to the provident fund. Interest on provident fund balance for the year is tk. 2,500 @ 15% interest. He paid life Insurance premium Tk. 5,000 for the year and purchased share of a company for Tk. 4,000.



Ans. Q No. 05:

**Mr. Aminullah**  
**Income Year 2012-2013**  
**Assessment year 2013-2014**

Particulars		Recognised	Unrecognised
Basic Salary	9,000 x 12	108,000	108,000
Dearness Allowance	20% of Basic Salary	21,600	21,600
Bonus	9,000 x 2	18,000	18,000
Rent Free Quarter	25% of Basic Salary or Annual Value (Tk. 30,000) Lower one	27,000	27,000
Conveyance Allowance	1,200 x 12 = 14,400 exempted upto 30,000	-	-
Medical Allowance	300 x 12 = 3,600 exempted upto actual (Tk. 2,500)	1,100	1,100
Provident Fund 10%	108,000 x 0.1	10,800	0
Interest of PF	15% of Fund balance. Exempt up to Lower of 1/3rd of basic salary and dearness allowance or 14.5%	83	0
<b>Total Income</b>		<b>186,583</b>	<b>1,75,700/-</b>

**Calculation of Tax**

No tax will be imposed as the total income in both cases is below taxable limit.

Note - 1:

Interest @15% on Balance	2,500
Less: Exempted	2,417
Taxable	83

(Lower of 1/3<sup>rd</sup> of basic salary and D.A or 14.5% as per clause 25 of Part A of 6th Schedule.

**Note - 2:** Employer's contribution to unrecognized P.F during the year and interest thereon is taxable at the time of withdrawal from fund not every year and TDS on such withdrawal is also applicable at that time.

**Q-06** XYZ Bank Ltd. has shown a net profit before tax amounting to Tk. 390 million for the year ended December 31, 2012. You are required to compute the tax liability of the bank for the assessment year 2013- 2014 considering the following facts:

- Accounting depreciation charged in the accounts was Tk. 14 million whereas tax depreciation has been calculation as Tk. 25 million.
- Inadmissible expenses have been found to be as follows:



Particulars	Tk. In Million
Perquisites	4.00
Subscriptions and Donations	0.25
Printing, Advertisement etc.	1.00
Sundry Expenses	0.45

iii) Extracted from the Balance Sheet Particulars

Particulars	Tk. In Million
Paid up capital	408
Statutory Reserve	130
Retained Profit - Opening	42
Retained Profit - Closing	148
Exchange Equalization fund	1

iv) Classification of Loans and Advances including Bills discounted and purchased

Particulars	Tk. In Million
Unclassified	8,065
Sub-Standard	25
Doubtful	15
Bad/Loss	5

v) Unclassified Loans and Advances include staff loan of Tk. 45 million. Other expenses include entertainment expenses of Tk. 4 million

vi) Provision for bad and doubtful debts shown in the profit and loss account includes.

Particulars	Tk. In Million
Specific Provision	1
General Provision	10

vii) Other income includes dividend of Tk. 5 million received from a publicly listed company

Ans. Q No. 06

**ABC Bank Ltd.**  
**Income year ended December 31,2012**  
**Assessment year 2013- 2014**

Particulars	Notes	Tk. In Million	Tk. In Million
Net Profit as per Profit and Loss A/C			390.00
<b>Separate Considerable Items:</b>			
Dividend		(5.00)	
Accounting depreciation -fiscal depreciation is allowable		14.00	9.00
			<b>399.00</b>



**Add: Inadmissible Items:**

Excess Perquisites		4.00	
Subscriptions and Donations		0.25	
Printing, Advertisement etc.		1.00	
Sundry Expenses		0.45	
Other Expenses Entertainment (for considering as per rule-65)		4.00	
Bad and Doubtful debt Provision (General plus specific)	2	11.00	20.70
			<u>419.70</u>

**Deduct: Allowable or Deductible Items:**

Fiscal Depreciation		25.00	
Entertainment as per Rule-65	1	4	4.00
Bad debt		5	34.00
Income from Business			<u>385.70</u>

**Income from Other Sources**

Dividend	4		<u>5</u>
<b>Total Income</b>			<b>390.70</b>

**Tax thereon**

Income Tax @ 42.5% on (390.70-5) = 385.70			<u>163.92</u>
Excess Profit Tax	3		15.03
			<u>178.95</u>
On dividend @ 20% on Tk. 5.00			1
<b>Tax Payable</b>			<b>179.95</b>

**Not-1: Entertainment Allowance:**

On First one Million @ 4%		.040
On Balance 398.7 Million @ 2%		<u>7.974</u>
		<u>8.014</u>

But restricted upto actual claim Tk. 4 million

**Note -2: Bad and Doubtful Debts:**

No provision for bad and doubtful debt is allowable as per section 29 other than actual bad debt of Tk. 5 million



### Note-3: Excess Profit Tax

#### Capital and Reserve:

Paid up Capital	408.00
Statutory Reserve	130.00
Retained Profit - Opening	42.00
Exchange Equalization Fund	1.00
<b>Total</b>	<b>581.00</b>
50% thereof	290.50
Total Income	390.70
Excess Profit (390.70 - 290.50)	100.20
Excess Profit Tax @ 15%	15.03

#### Note -4 : Dividend :

Rate of tax on dividend is 20%

**Q-07** The following particulars of income of Mr. Ali Ahmed are available for the assessment year 2013-2014

5

Income from House Property	100,000
Business Income (after allowing for current year's depreciation of the Tk. 20,000)	70,000

The following sums have been brought forward from the preceding year

Unabsorbed Depreciation	80,000
Business Loss	50,000

Deputy Commissioner of taxes is proposing to assess him on a total income of Tk. 100,000 by setting off only of the business loss of Tk. 50,000 and part of the unabsorbed depreciation of Tk. 20,000 against the business income of Tk. 70,000. Is he right in his action?

**Ans. Q No. 07:**

Yes the DCT is right in his action.

Because business loss cannot be set off against HP income as per provision of section 37 of I.T.O. 1984

**Q-08** Discuss the salient features of changes in VAT Act. 1991 brought about by Finance Act 2011



**Ans. Q. No. 08:**

**1. Amendment of Section - 2:**

In section 2, in definition of input tax, for words deducted at source, the words "collected in advance" will be substituted.

Post of Chief Commissioner of VAT is created.

**2. Insertion of new section - 2KA:**

Insertion of new section 2KA. By which priority will be given to VAT Act and Rules.

**3. Amendment of Section - 3:**

In place of the word "Supplier", "Supplier and receiver of service" will be substituted

**4. Amendment of Section - 6 :**

**In section 2, in definition of input tax, for words deducted at source, the words "collected in advance" will be substituted.**

a) Substitution of sub-section (4KAKKA)

This relates to procedure of VAT payment by registered person.

b) Substitution of sub-section 4Kha

Issue of certificate by VAT collecting person to supplier.

c) Insertion of sub-section (4KAKAKA)

NBR's can be order issue the list of service renderers mentioning the code of service.

d) Insertion of sub-section 4 (Cha)

This provides for penal provisions for default in collection, deduction and deposit of VAT.

**5. Amendment of Section - 8:**

Turnover tax. By this amendment, the person engaged in manufacturing taxable good, or business or service renderer shall pay 3% tax on his annual turnover against 4% of preceding years.

**6. Amendment of Section - 9:**

Sub-section (1KAA) is deleted.

**7. Amendment of Section - 13:**

Sub-section 3 is substituted by new sub-section 3 which provides for by order issued by, Director General, duty rebate and drawback, can direct for rebate and drawback.

**8. Amendment of Section - 15 (2):**

Substituted by new section 15(2) which imposes new condition for being centrally registered for operation of business from two or more places.

**9. Creation of Post:**

Creation of Post of Chief Commissioner VAT and Commissioner VAT vide amendment in section 20.



**10. Amendment of Section - 24:**

In sub-section 1 in place of "Bangladesh Rifles" the words 'Boarder Guard "Bangladesh" will be inserted.

**11. Amendment of Section - 37(2):**

New insertion of clause (khakhakha) by which a person can be penalised upto one and half times of the tax payable in case of evasion of VAT by tampering in Form Mushak 16.

**12. Amendment of Section - 38:**

Amendment of Section 38 by reducing penalty from two and half time to one and half times.

**13. Insertion of ADR in the time of Income tax and Customs (sections 41 KAA to 41 TA):**

If any person is aggrieved at the order passed by any VAT authority or Duty and VAT Appeal authority he can take recourse to ADR, for resolution of the disputes. Such application for ADR is to be made before appeal authority passes his order. Details of appointment of facilitator, duty and responsibility of aggrieved person for seeking redress before ADR, for an arrangement and other relevant matters are to be guided by rules to be framed by NBR.

**14. Amendment of Section -42- Time for disposal appeal:**

In sub-section 4 in place of "nine months" "one year" will be replaced.

**15. Insertion of New Section -71 GA:**

By insertion the above section, the Government has created two funds, namely a) tax refund fund and b) Reward and financial incentive fund. These two funds will be created from Boards own account for refund of tax due and giving rewards to the officer and employees and VAT officials who have collected tax more than the target.

**16. Amendment of Section -72, sub-section - 3:**

In place of two and half times, one and half times will be replaced.

**Q-9: How are the value of goods and services determined for imposition of VAT?**

5

**Ans. Q. No. 9:**

According to section 5 of the Value Added Tax Act 1991:

**In Case of Importation**

In Case of importation of goods, the amount on which the value added tax shall be payable shall be determined by adding the amount of import duty, supplementary duty and all other duties and taxes, (if any), except advance income tax payable, to the assessable value determined under section 25 or 25A of the Customs Act.

**In case of Goods Supplied**

The price shall be the consideration receivable from buyer by the producer or business person, which will include purchase price of materials and all expenditure incurred by the manufacturer and also commission, charges, fees and all supplementary duty excluding VAT and profit.



If any registered person sells goods directly or sales centers, distributors or commission agents under his own brand name, the value added tax shall, in the case of the goods with brand name be determined on the basis of the consideration due from the purchaser to the owner of the brand named goods.

#### In case of Services:

Value added tax shall be imposed on the total receipts.

#### In case Goods Subject to Trade Discount

Goods on which trade discount is allowed, value added tax will be charged on the value of the goods after deduction of trade discount.

**Q -10** ABC Industries Ltd. A vehicle assembly plant has imported CKD parts and companies for trucks amounting to Tk. 2,500,000 in the month of July 2010. ABC Industries Ltd. has assembled and manufactured 4 trucks from the above imported parts and components and then sold those 4 trucks to their dealer M/S Khaleque and Co. @ Tk. 1,000,000 each. M/S Khaleque and Co. then sold 3 (three) trucks to M/S Zakaria Transport and Co. @ Tk. 1,100,000 each

5

Calculate VAT @ 15% payable at import stage and each stage of sale.

**Ans. Q. No. 10:**

**A/C : ABC Industries Limited**

	Value Taka		VAT @ 15% thereon Taka
Import - value of CKD Parts & Components	2,500,000	Paid	375,000
Sale to Khaleque & Co.: 4 trucks	4,000,000	Realised	600,000
Net VAT Payable Depositable			225,000

**A/C : Khaleque and Co.**

	Value Taka		VAT @ 15% thereon Taka
Purchase from ABC Indus. Ltd. as above	4,000,000	Paid	600,000
Sale to Zakaria & Co.: 3 trucks	3,300,000	Realised	495,000
Net VAT Balance: Adjustable against future sale			105,000

**A/C: Zakaria Transport:**

	Value Taka		VAT @ 15% thereon Taka
Purchase from Khaleque for 3 trucks	3,300,000		495,000

The End



## TAXATION-II

Nov- Dec 2012

### Question no: 01

Discuss the conditions relevant to charging tax on house property. What deductions are allowed for determining taxable amount for charging income tax?

### Answer: 01

#### Conditions of charging tax on house property income according to section 24 of ITO 1984:

Tax shall be payable by an assessee under the head "Income from house property" in respect of the annual value of any house property whether let out for commercial or residential purposes, consisting of any building and land appurtenant thereto of which he is the owner.

Income tax is levied not upon the actual income from the property but upon the notional income based on annual value. Annual value is defined in section 2(3) as "The sum for which the property might reasonably be expected to let out from year to year"

Where two or more persons own the property and if their respective shares are definite and ascertainable, the owners are assessable separately on their respective share of income from the property.

In computing house property income the following allowances are deductible from the annual value:-

#### (1) Repairs and maintenance:-

The following expenditure relating to repairs, maintenance and provision of basic services is granted as a deduction even if no evidence for such expenditure is produced. Where the property is let out for residential purposes the allowable deduction is 1/4th of the annual value and where it is let out for commercial purpose the allowable deduction is 30% of the annual value:

- (a) Repairs;
- (b) Expenditure relating to collection of rent;
- (c) Water and sewerage;
- (d) Common electricity;
- (e) Salary of:-
  - (i) Darwan;
  - (ii) Security guard;
  - (iii) Pump-man;
  - (iv) Lift-man; and
  - (v) Caretaker
- (f) All other expenditure related to maintenance and provision of basic services.

- (2) Land development tax;
- (3) Municipal tax;
- (4) Ground rent;
- (5) Insurance Premium,
- (6) Vacancy allowance (if the property remain vacant during a part of the year);
- (7) Where the let out property is acquired, constructed, repaired, renewed or reconstructed with loan then the interest payable for the year on such loan;
- (8) Where the let out property has been constructed with borrowed capital and there was no house property income during the period of construction, the interest payable during the period of construction will be allowable in 3 equal installments from first 3 years of letting out;



## Question no: 02

Write short notes on the following in relation to Income Tax Ordinance 1984

- a) Double taxation avoidance agreement
- b) Best Judgment assessment
- c) Refund of tax
- d) Capital gain

**Answer: 02 (a)**

### Double taxation avoidance agreement

According to section 144 of ITO 1984

Double taxation avoidance agreement is usually an agreement between 2 countries seeking to avoid double taxation by defining the taxing rights of each country with regard to cross border flows of income and providing tax credits or exemptions to eliminate double taxation. The Govt. of Bangladesh also may enter into an agreement with the Govt. of other countries for the avoidance of double taxation and the prevention of fiscal evasion. Income tax policy wing of the National Board of Revenue (NBR) is entrusted to negotiate the double taxation treaty with foreign countries to promote foreign direct investment in Bangladesh. Such agreement will come into force through notification in the official Gazette. It will be treated as an international law and accordingly its legislative position would be over and above our Bangladesh tax law. The objectives of such agreement are:-

- a) Relief from the double tax payable;
- b) Determining the income accruing or arising, or deemed to be accruing or arising to non-residents from sources within Bangladesh;
- c) Where all the operations of business or profession are not carried on within Bangladesh, determining the income attributable to operations carried on within or outside Bangladesh, or the income chargeable to tax in Bangladesh in the hands of non-residents, including their agencies, branches or establishments in Bangladesh;
- d) Determining the income to be attributable to any person resident in Bangladesh having any special relationship with a non-resident;
- e) Recovery of tax livable;
- f) Exchange of information for the prevention of fiscal evasion.
- g) To attract FDI in Bangladesh.

**Answer: 2 (b)**

### Best Judgment assessment

According to section 84 of ITO 1984

Where any assessee fails to file return required by a notice u/s 77/93 and has not filed a return or revised return u/s 78 or to comply with the requirements of notices u/s 79, 80 or 83(I), the D.C.T. shall assess income to the best of his judgment.

The DCT shall, by an order in writing, assess the total income of the assessee to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment and communicate such order to the assessee within 30 days.



### Answer: 02 (c)

#### Refund of Tax:

According to section 146 of ITO 1984

A person, who satisfies the DCT or other authority appointed by the Government that the tax paid by him or on his behalf, or treated as paid by him or on his behalf for any year exceeds the amount with which he is properly chargeable for that year, shall be entitled to a refund of any such excess payment.

In case of death, incapacity, insolvency, liquidation or other cause, person, is unable to claim or receive any refund due to him, his legal representative, or the trustee, guarding or receiver, can claim or receive such refund for the benefit of such person

No questions can be raised by the claimant regarding correctness or validity of any assessment after claiming refund.

### Answer: 02 (d)

#### Capital Gain:

According to Section 31 of ITO 1984

Tax shall be payable by an assessee under the head "Capital gains" in respect of any profits and gains arising from the transfer of a capital asset and such profit and gains shall be deemed to be the income of the income year in which the transfer took place. In computing capital gain the following expenditure is deductible from the full value of consideration receivable or the fair market value of the asset whichever is higher, would be treated as capital profit or capital gain.

- a) Any expenditure incurred solely in connection with the transfer of the capital asset.
- b) The cost of acquisition of the capital asset and any capital expenditure incurred for any improvements

Where a capital gain arises from the transfer of a capital asset being Government Securities and stocks and shares of public companies listed with a stock exchange in Bangladesh, then no tax shall be charged.

#### Example:

Cost of a capital asset	Tk.	100,000
Written Down Value	Tk.	60,000
Sales Value or Consideration Received	Tk.	120,000

Here Capital gain =  $(120,000 - 100,000) = 20,000$

### Question: 03

Discuss the provisions of ITO 1984 regarding penalties for the following defaults.

- a) Failure to file return of income under section 75
- b) Failure to pay advance tax under section. 64
- c) Failure to deduct tax at source
- d) Failure to comply with notices for production of accounts under section 79
- e) Failure to pay tax on the basis of the return of income under section 74



**Answer: 03**

The penal provisions are tabulated below: -

Sl.	Grounds of Penalty	Reference Section	Amount of Penalty	Pre-conditions/ Comments
1.	Penalty for failure to file return including withholding tax return	124(1)	10% of the last assessed tax or Tk. 1,000/- whichever is higher.  plus  Tk. 50/- per day during which the default continues.	Penalty cannot be imposed unless the assessee has been heard or has been given a reasonable opportunity of being heard.
2.	Failure to pay advance tax	125	The amount of short fall (maximum)	1) Penalty cannot be imposed unless the assessee has been heard or has been given a reasonable opportunity of being heard.  2) DCT shall not impose the penalty without the previous approval of the IJCT
3.	Penalty for non-compliance with notice u/s 79	126	The amount of tax subsequently assessed (maximum)	-Do-
4.	Failure to pay tax u/s 74 on the basis of return	127	If tax paid u/s 74 is less than 80% of the payable amount then 25% of the short fall (maximum).  If 80% is covered then no penalty.	-Do-
5.	Failure to deduct/collect tax at source or having deducted/collected but fails to deposit into national exchequer.	57	2% per month of the amount of tax to be deducted, collected or deposited	(1) The deducting authority will also be treated as an assessee in default.  (2) Expenditure will be disallowed as per section 30(a) and 30(aa)



#### Question: 04

Wahab & Co. Limited a listed public limited company with its registered office in Dhaka, has shown net profit of Tk. 837,413 in the audited accounts for the income year ended June 30, 2013.

You are required to compute total income and tax payable on correct return u/s 82 of the ITO 1984 indicating the assessment year and after considering the following facts:

- Excess perquisites calculated u/s 30(e) Tk. 145,000
- Salaries and allowances of Tk. 176,000 paid without complying with the provisions of section 30(a)
- Registration expenses and fees include Tk. 215,701 found to be personal entertainment in nature.
- Advertisement and publicity expenses include Tk. 125,000 as donation to a local sports club.
- Gratuity provision during the year is Tk. 677,937 but actual payment is 276,434,
- Rent, rates and taxes claimed at Tk. 368,212 out of which Tk. 214,640 paid as rent without complying the provision of section 53A of the ITO 1984.
- Accounting depreciation as per audited accounts is Tk. 2,979,211, and tax depreciation as calculating with reference to previous year assessment is Tk. 3,727,422.
- Technical fee of Tk. 210,000 paid to foreign collaborators charged in the accounts.
- Export turnover was, 10% of the total sales of the company.
- The company declared 60% dividend for the year.

#### Answer: 04

Wahab & Co. Limited: A Listed Public Company,  
Income Year ended June 30, 2013  
Assessment Year 2013 - 2014

Particulars	Notes	Taka	Taka
Net Profit as per audited Profit & loss A/C			837,413
<b>Add: Items to be considered separately:</b>			
Technical fee	1	210,000	
Accounting depreciation		2,979,211	
Gratuity Provision		<u>677,937</u>	<u>3,867,148</u>
			4,704,561
<b>Add: Inadmissible Items:</b>			
Excess perquisites u/s 30(e)		145,000	
Salaries and allowance - u/s 30(a)		176,200	
Donation to a local sports club not allowable u/s 29		125,000	
Registration fee included personal entertainment		215,701	
Rent payment without TDS disallowed u/s 30(aa)		<u>214,640</u>	<u>876,541</u>
			5,581,102
<b>Deduct: Allowable or deductible items:</b>			
Gratuity Paid		276,434	
Tax depreciation		3,726,422	
Technical know how fee allowable @ 8% of profit		<u>126,260</u>	<u>4,129,116</u>
Total Income			
Tax thereon:			<u>1,451,986</u>
Tax @ 24.75% as dividend declared more than 20% of Tk. 1,451,986			
Less: Export rebate of 50% on Export turnover of 10% of Tk. 359,367			359,367
Tax payable			<u>17,968</u>
			<u>341,399</u>



Note-1: Technical Know how:

Allowable upto @ 8% of profit of Tk. 1,578,246 u/s 30(h) of ITO 1984

Note-2: Export Tax rebate:

10% of sale of manufactured goods is export so the company will enjoy 50% tax rebate on export business under para 28 of Part A of 6th Schedule of ITO 1984.

## Question; 05

Given below is the Profit & Loss A/C of NYZ Textiles Ltd., for the year ended June 30,2013

Particulars	Taka	Particulars	Taka
Cotton	11,417,950	Sale of Yarn	10,811,956
Stores	1,835,648	Sale of Textile Products	10,926,425
Mills Salaries & Wages	3,831,984	Export Subsidy Incentive received in Cash	407,687
General Expenses	29,010	Sale of Waste	121,508
Replacement of Plant & Machinery	2,039,000	Rent of Bungalows	57,902
Stamp Duty, Registration Legal Fees etc.	250,000	Dividend	17,400
Motor Car Overhauling Expenses	15,000	Interest on PSP	15,000
Purchase of two Painting for MD's Office	30,000		
X-Mass Gift Given to the Foreign Contractor	10,000		
Refreshment, Food Drinks etc., at one of its Business Meetings	25,400		
Expenditure incurred on Catering and refreshments for shareholders and guests at general body meeting	50,600		
Donation	10,000		
Rates & Insurance	40,376		
Office Expenses	240,694		
Directors' Fees	9,000		
Auditors Fees	30,000		
Interest	211,850		
Repairs to Building & Machinery	124,556		
Trade Penalties, legal Expenses & Professional Charges	120,000		
Entertainment	249,700		
Workmen's Welfare Expenditure	55,184		
Contribution to Staff Provident Fund	75,500		
Provision for Gratuity	150,000		
Reserve for Meeting Contingent Liability	30,000		
Loss for Discarding Ageing Machinery	205,397		
Selling Agent's Commission	201,690		
Net Profit (Subject to Depreciation)	<u>1,069,339</u>		
	<u>22,357,878</u>		<u>22,357,878</u>



From the foregoing, compute the company's taxable income from business, the total income (computation should include necessary reasons), and tax liability for the assessment year, 2013- 2014 taking into account:

- i) Sale of textile products includes Tk. 89,249 from export;
- ii) Payment of Mills Salaries includes Tk. 75,000 for payment of tax for a foreign technician engaged by the company;
- iii) Expenses for stamp duty, registration, legal fees, etc. amounting 250,000 have been incurred in raising loans;
- iv) Rates Tk.1,800, insurance Tk. 2,500 and repairs to building Tk. 7,544 in respect of bungalows;
- v) The break-up of trade penalties, legal expenses and professional charges for Tk. 120,000 is as follows:
  - a) Trade penalties and law expenses constitute Tk. 20,000.
  - b) Assessee Company has spent Tk. 50,000 for successfully defending the allegation of black marketing.
  - c) Professional charges include Tk. 20,000 paid to an income tax practitioner to represent the cases to the Deputy Commissioner of Taxes and Tk. 30,000 to represent an Income tax Appeal before Appellate Tribunal.
- vi) Donation includes Tk. 5,000 contribution to Zakat Fund;
- vii) The Staff Provident Fund is a recognized one;
- viii) It is found that the amount of gratuity actually paid during the year was Tk. 100,000;
- ix) Dividend income has been subject to dividend distribution tax;
- x) The amount of depreciation allowable for assets used for the company's business is worked out at Tk. 551,710;
- xi) It is revealed that outstanding trading liabilities amount to Tk. 1,100,000. The dates of origin of the trading liabilities are as follows:

a) Assessment year 2009 - 2010	350,000
b) Assessment year 2010 -2011	300,000
c) Assessment year 2011 - 2012	150,000
d) Assessment year 2012 - 2013	300,000
	<u>1,100,000</u>

NYZ Textiles Ltd.,  
Income year 2012 - 2013  
Assessment year 2013- 2014

Computation of Taxable Income	Taka	Taka
Net Profit	1,069,339	
Less:		
Export Subsidy / Incentive for separate consideration	407,687	
Rent of bungalows (income from house property)	57,902	
Dividend	17,400	
Interest on PSP	<u>15,000</u>	
	497,989	<u>571,350</u>
Add: Inadmissible expenses:		
X-Mas Gift Given to the Foreign Contractor	10,000	
Donation	5,000	
Rates, insurance & repairs (1,800 + 2,500 + 7,544)	11,844	
Trade penalties law expenses	20,000	
Provision for Gratuity	150,000	
Reserved for meeting contingent liability	30,000	
Entertainment Expenses	249,000	
Outstanding Liabilities not paid within 3 years	350,000	<u>2,865,544</u>
Replacement of Plant & Machinery being capital expenditure	<u>2,039,000</u>	<u>3,436,894</u>



Less: :Gratuity Paid:	100,000	
Tax depreciation	<u>551,710</u>	<u>651,710</u>
		<u>2,785,194</u>
Less:		
Entertainment Expenses		
First 1,000,000 @ 4%	40,000	
Next 1,785,194 @ 2%	<u>35,704</u>	<u>75,704</u>
Business Income		2,709,490
Income from Export Incentive $407,687 / 95 \times 5 / 0.15$		<u>143,047</u>
Total Business Income		<u>2,852,537</u>
		Total
Tax on Business income of Tk. 2,709,490 @ 15%		406,424
(SRO : 218 -11/2003 of 19.07.03)		
Tax on cash Subsidy (Final Settlement) 82C		21,457
Other Income:		
Income from dividend of Tk. 17,400 tax@ 20% deducted and the tax rate is also 20%		3,480
Interest on PSP (assuming it was purchased before 10/06/1999)	15,000	
Less: Exemption	<u>15,000</u>	
Income from House Property:		
Rental income that is annual value	57,902	
Less: Rates and insurance	4,300	
Less: repairs 25%	<u>14,475</u>	
		39,127

**Notes:**

- Payment of employee's tax for Tk. 75,000 paid by the employer is allowable expenditure and such tax is exempted from payment of tax in the hand of employee- SRO: 182 - L/99 of 01, July 1999.
- Expense for stamp duty, registration legal fees amounting to Tk. 250,000 is allowable expenses u/s 29 (xvii)
- Professional & legal fees are allowable but fine & penalties for Tk. 20,000 are not considered. iv) Donation to Zakat fund is an allowable expense.
- Replacement of plant & machinery is capital nature of expenditure.
- Purchase of two paintings for MD's office is a decoration expenses is allowable expenditure u/s 29.
- Since the company is paying tax at reduced rate, tax rebate for export of Tk. 89,249 could not be allowed (clause 28 Part A of 6th schedule).
- Gift is an allowable expenditure if given for business purpose. However, in absence of specific indication regarding purpose, one given to foreign contractor has been disallowed.
- The trading liability not paid within 3 years of the expiration of income year is being considered as an income u/s 19 (15) (c) of ITO 1984.
- The amount of Tk. 50,000 being spent for defending the allegation of black marketing is allowable expenses.

**Question: 06**

**Define money laundering. Is it a tax related offence?**

**Answer: 06**

Money laundering is the process of changing large amounts of money obtained from crimes, such as drug trafficking, into origination from a legitimate source.

Money Laundering is the process by which criminals attempt to conceal the true origin and ownership of the proceeds of criminal activities. If successful, the money can lose its criminal identity and appear legitimate.

In terms of section 2 (tha) of Money Laundering Prevention Act. 2002, "Money Laundering means (a) Properties acquired or earned directly or indirectly through illegal means ; (b) Illegal transfer, conversion, concealment of location or assistance in the above act of the properties acquired or earned directly or indirectly through legal means." In this Act. "Properties means movable or immovable properties of any nature and description".



The terms Money Laundering is used for a number of offences involving the proceeds of crime or terrorist funds. It now includes possessing or in any way dealing with, or concealing, the proceeds of any crime.

Someone is engaged in money laundering under where they:

- Acquire or earn properties directly or indirectly through illegal means;
- Transfer, convert, conceal location or assist in the 'above act of the properties acquired or earned directly or indirectly through legal means.

Where a professional accountant suspects that client is involved in money laundering he should report this to the authorities.

Tax related offences are not in a special category. The proceeds or monetary advantage arising from tax offences are treated no differently from the proceeds of theft, drug trafficking or other criminal conduct.

### Question: 7

ABC Limited, a Bank in Bangladesh has submitted an income statement showing profit of Tk.2,58,000 for the year ended 31st December 2010. You are required to find out the amount of-

- (a) 1% of unclassified loan
- (b) Admissible entertainment allowance
- (c) Calculation of excess profits under section 16(C)
- (d) Revised Income

On the basis of the additional information as given under:

(i) Loans and Advances

- Unclassified advances Tk.21,00,000
- Sub-standard advances Tk.8,50,000
- Bad and Loss Tk.1,02,50,000
- Doubtful Debts Tk.11,45,000

(ii) Capital Structure

- Paid-up Capital Tk.20,00,000
- Statutory Reserve Tk.7,50,000
- Retained Earnings Tk.2,50,000
- Dividend Equalization Fund Tk.2,00,000

(iii) Depreciation

- Accounting depreciation Tk.50,000
- Tax depreciation Tk.80,000

(iv) Perquisites and Allowances

- Excess perquisite Tk.50,000
- Printing and Advertisement Expenses Tk.40,000 (Capitalized)
- Entertainment Allowances Tk.65,000
- Other Expenses on which TDS are not applied Tk.10,000

Compute the Taxable income and tax liability of the above bank for the assessment year 2013-2014.



Answer: 7

ABC Bank Ltd.  
Assessment year 2013-2014  
Computation of Income Tax Liability

Net Profit as per account		258,000
Less: income from Investment		100,000
		158,000
Add: Expenses to be considered separately	50,000	
(a) Accounting Depreciation	42,000	
(b) Provision for Bad & Doubtful Debts	65,000	
(c) Entertainment allowance		157,000
		315,000
Add: Inadmissible Expenses		
(i) Excess perquisites	50,000	
(ii) Printing & Advertisement (Capitalized)	40,000	
(iii) Other Expenses	10,000	
		100,000
		415,000
Less: Tax depreciation		80,000
		335,000
Add: Income from investment		100,000
Less: Entertainment allowance		435,000
Revised Income		17,400
		417,600
Working Notes:		
(a) Loans and Advances	14,345,000	
1% on unclassified Advance	143,450	
b) Actual provision for Bad Debts	42,000	
(c) Entertainment allowance allowable		
@ 4% upto Tk. 10,00,000 and balance		
@ 2% on business income Tk. 4,35,000	14,400	
(d) Calculation of excess profit under section 16C		
(a) Tire-1 Core capital		
Paid up Capital	2,000,000	
Statutory Reserve	750,000	
Retained Earnings	250,000	
	3,000,000	
(b) Tire-2 Supplementary Capital:		
General Provision on unclassified loan @ 1%	21,000	
Dividend Equalization fund	200,000	
	221,000	
Total (a+b)	3,221,000	
50% of Profit	1,610,500	
Actual profit	417,600	
Excess profit Tax	Nil	
Taxable income is Tk4,17,600 and tax is @42.5% which is Tk.		1,77,480



### Question: 08

What are the conditions to be fulfilled in order to claim delivery of goods as deemed export under Rule 31 of the VAT Rule 1991?

### Answer: 08

Following are the conditions to be fulfilled in order to claim delivery of goods as deemed export under Rule 31 of the VAT Rule 1991:

- 1) Proceeds thereof receivable on foreign currency through official channel;
- 2) Refund (input VAT minus output VAT) claimable u/R 29 - based applicable Dakhilpatra (Return) u/s 35 - Rule 24Mushak # 19;
- 3) Otherwise i.e. when Return (u/s 35 - rule 24: Mushak # 19) submission is not applicable, in that scenario, refund (of input-Vat) to be claimed u/R 30;
- 4) Evidencing documents, like Tender, acceptance thereof, work completion guidelines/ directions of receipt of FC payment officially, will need to be furnished to VAT Authority.

### Question: 09

How do you maintain a VAT current register (VAT-18) as per VAT Act and VAT Rules, 1991 ?

### Answer: 09

Current account contains record of all VAT deposit, payable and adjustment. A registered person can maintain computerized current account with the permission of the Board. BIN Number including name, address and telephone number of registered person is recorded at the top of Current Account. The Account Current is made up of 10 columns and has cross reference with purchase and sales book. All input tax, rebate due to sales return, balance of previous month Current Account and all other dues and return are taken into rebate column. All dues like output tax cancellation of rebate due to purchase return, penalties and all other dues go to payable column. Treasury deposit is shown in the column designated thereof.

The Account Current should always be maintained with: positive balance.

### Question: 10

Abul & Co. Ltd. incurred the following transactions in September 2012

Raw materials aggregating to Tk. 500,000 were purchased on 5 September 2012, VAT on the same paid and the VAT challan along with the goods were received. on 10 September 2012

8 September 2012 Tk.300,000

9 September 2012 Tk.200,000

10 September 2012 Tk.500,000

15 September 2012 Tk.600,000

The following deposits were made to the Govt. Exchequer through treasury challan :

7 September 2012 Tk.20,000

12 September 2012 Tk.30,000

15 September 2012 Tk.70,000

Balance of deposit at 1 September 2012 in VAT

You are required to:

Enter the above transactions in VAT -18 of the company;

Write a letter to the management on the irregularities noted by you in completing the VAT current register (VAT -18) and implications of the same on the company.



Current Account  
(As per Rules 22(1))

Taxpayers' Identification Number:

Name:

Address:

Telephone:

51. No.	Date	Details of Transaction	Purchase or Sales Register		Treasury Deposit	Rebate	Dues	Closing Balance	Remark'
1	I 2	3	4	5	"6	7	8	19	10
1.	01.09.2012	Opening BI.				50,000		50,000	
2.	07.09.2012	Treasury			20,000			70,000	
3.	08.09.2012	Delivery					45,000	25,000	
4.	09.09.2012	Delivery					30,000	-5,000	
5.	10.09.2012	Purchase					75,000	70,000	
6.	10.09.2012	Delivery					75,000	-5,000	
7.	'12.09.2012	Treasury			30,000			25,000	
8.	15.09.2012	Treasury			70,000			95,000	
9.	15.09.2012	Delivery					90,000	5,000	

We have gone through the VAT transactions of the period from 1st September to 15th September 2012, recorded in Current Account and observed negative balance at two occasions which is a clear violation of Rule 22(1) Gha, mandated. Maintenance of sufficient balance required' in the Current Account, by which adjustment or payment of payable output tax can be made by accumulating the balance with the deposited money and the rebate (credit) of input tax. This is an offence u/s ,37(2)(Nio Nio Nio) which attracts a monetary penalty on an amount not less than 1/2 and more than 2 times of the amount of VAT or where applicable, VAT and Supplementary duty, payable upon, the goods and services and if convicted in a court of Magistrate, liability to' imprisonment for not less 3 months and not more than 2 years, or to a fine not less than]], and more than 2 times of, the amount of VAT or where applicable, VAT and Supplementary duty or both. However, for irregularities other than evasion of revenue, the amount of fine is limited to, not less than Tk. 5,000 and not more than Tk. 300,000.

We recommend strict compliance with the provision of VAT laws to avoid punitive actions.

Pl. don't hesitate to enquire any question on any matter on VAT with particular attention to the issue concerned herein.

Thanking you

Yours Sincerely



**Suggested Answer**  
**Tax-II**  
**May-June 2013**

**Question No. 1**

**Write shorts notes :**

- a. Company.
- b. Dividend.
- c. Income.
- d. Market Value.
- e. Principal Officer.

**Answer to the Question No. 1**

a. 'Company' means a company as defined in the Companies Act, 1913 or Companies Act 1994 and includes –

- (a) a body corporate established or constituted by or under any law for the time being in force;
- (b) any nationalized banking or other financial institution, insurance body and industrial or business enterprise;
- (c) an association or combination of persons, called by whatever name, if any of such persons is a company as defined in the Companies Act, 1913 or Companies Act 1994.
- (d) any association or body incorporated by or under the laws of a country outside Bangladesh; and;
- (e) any foreign association or body, not incorporated by or under any law, which the Board may, by general or special order, declare to be a company for the purposes of this Ordinance;

Reference: Section 2(20) of the Income Tax Ordinance 1984 (ITO 1984)

**b. Dividend includes –**

- (a) any distribution by a company of accumulated profits, whether capitalized or not, if such distribution entails the release by the company to its shareholders of all or any part of its assets or reserves;
- (b) any distribution by a company, to the extent to which the company possesses accumulated profits, whether capitalized or not, to its shareholders of debentures, debenture-stock or deposit certificates in any form, whether with or without interest;
- (c) any distribution made to the shareholders of a company on its liquidation to the extent to which the distribution is attributable to the accumulated profit of the company immediately before its liquidation, whether capitalized or not;
- (d) any distribution by a company to its shareholders on the reduction of its capital, to the extent to which the company possesses accumulated profit, whether such accumulated profits have been capitalized or not;
- (e) any profit remitted outside Bangladesh by a company not incorporated in Bangladesh under Companies Act 1994.
- (f) any payment by a private company by way of advance or loan to a shareholder or any payment by any such company for the individual benefit of such shareholder, to the extent to which the company, in either case, possesses accumulated profit.



Reference: Section 2(26) of the ITO 1984

**c. 'Income' includes –**

- (a) any income, profit or gains, from whatever source derived, chargeable to tax under any provision of Section 20 of the ITO 1984.
- (b) any loss of such income, profits or gains;
- (c) the profits and gains of any business of insurance carried on by a mutual insurance association computed in accordance with paragraph 8 of the fourth Schedule to ITO 1984;
- (d) any sum deemed to be income, or any income accruing or arising or received, or deemed to accrue or arise or be received in Bangladesh under any provision of ITO 1984.

Reference: Section 2(34) of the ITO 1984

**d. 'Market Value', in ITO 1984 referred to agricultural produce, which means –**

- (a) where such produce is ordinarily sold in the market in its raw state or after application to it of any process employed by a cultivator to render it fit to be taken to the market, the value calculated according to the average price at which it has been sold during the year previous to that in which the income derived from such produce first becomes assessable; and
- (b) where such produce is not ordinarily sold in the market in its raw state, the aggregate of –
  - (i) the expenses of cultivation;
  - (ii) the land development tax or rent paid for the lands in which it was grown; and
  - (iii) such amount as the deputy Commissioner of Taxes finds, having regard to the circumstances of each case, to represent a reasonable rate of profit on the sale of the produce in question as agricultural produce;

Reference: Section 2(40) of the ITO 1984

**e. 'Principal Officer' as per ITO 1984, is applicable to a local authority, a company, any other public body or any association of persons and includes –**

- (a) managing director, manager, secretary, treasurer, agent or accountant (by whatever designation known), or any officer responsible for management of the affairs, or of the accounts, of the authority, company, body or association; and
- (b) any person connected with the management or the administration of the local authority, company, body or association upon whom the Deputy Commissioner of Taxes has served a notice of his intention to treat him as principal thereof;

Reference: Section 2(48) of the ITO 1984

**Question No. 2**

- (i) Mr. Rahman owner of smart fabric which has three outlets in Dhaka. He has recently opened a new outlet at UK and Mr. Rahman has decided to transfer the goods from Bangladesh but he does not know the system of computation of transfer price and keeping of information, documents and records as per Income Tax Ordinance 1984. What are the methods to compute



the transfer price and what records, information and documents are to be kept as per Income Tax Ordinance 1984?

8

- (ii) What is the provision with regard to penalty for failure to keep, maintain or furnish information, documents or records to DCT in relation to transfer price?

2

### Answer to the Question No. 2

In pursuance with Chapter XIA of ITO 1984, transfer price shall be determined having regard to the arm's length price. As noted u/s 107C of ITO 1984, the arm's length price in relation to an international transaction shall be determined by applying the most appropriate method or methods selected from the following methods based on the nature of transaction, the availability of reliable information, functions performed, assets employed, risks assumed or such other factors as may be prescribed, namely:-

- Comparable uncontrolled price method;
- Resale price method;
- Cost plus method;
- Profit split method;
- Transactional net margin method;
- Any other method when none of aforesaid method can be reasonably applied to determine the arm's length price for the international transactions and such other method which yields a results consistent with arm's length price.

Records, information and documents to be maintained relating to transfer price as per Section 107E of ITO 1984:-

- (1) Every person who has entered into an international transaction shall keep and maintain such information, documents and records as may be prescribed.
- (2) Without prejudice to the provisions of sub-section (1), the Board may prescribe the period for which the information, documents and records shall be kept and maintained.
- (3) The Deputy Commissioner of Taxes may, by notice in writing, require any person to furnish any information, documents and records as prescribed under sub-section (1) within the period as may be specified in the notice.

Penalty for failure to keep, maintain or furnish information, documents or records to the Deputy Commissioner of Taxes:-

Where any person fails to keep, maintain or furnish any information or documents or records as required by section 107E of ITO 1984, without prejudice to the provisions of Chapter XV of ITO 1984, the Deputy Commissioner of Taxes may impose upon such person a penalty not exceeding one percent of the value of each international transaction entered into by such persons.

### Question No. 3

- Discuss the provision of assessment on the basis of report of a Chartered Accountant under section 83AAA of Income Tax Ordinance 1984.
- What are the consequences of failure to deduct TDS as per income tax Ordinance 1984?

5

5



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- b) Resale price method;
- c) Cost plus method;
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### Question No. 3

- (a) Discuss the provision of assessment on the basis of report of a Chartered Accountant under section 83AAA of Income Tax Ordinance 1984.
- (b) What are the consequences of failure to deduct TDS as per income tax Ordinance 1984?

5

5



### Answer to the Question No. 3

(a) 83AAA- of ITO 1984 Assessment on the basis of report of Chartered Accountants-

- (1) Where a return or revised return is filed under Chapter VIII by an assessee being a company and the Board has reasonable cause to believe that the return or revised return is incorrect or incomplete, the Board may appoint a registered chartered accountant to examine the accounts of that assessee.
- (2) The chartered accountant appointed under sub-section (1) shall exercise the powers and functions of the Deputy Commissioner of Taxes as referred to in section 79 and clauses (a), (b), (c), (d) and (e) of section 113 of ITO 1984.
- (3) The chartered accountant, after examination of the accounts of that assessee, shall submit a report in writing to the Board along with findings within a time as may be specified by the Board.
- (4) On receipt of the report referred to in sub-section (3), the Board shall forthwith forward the report to the concerned Deputy Commissioner of Taxes for consideration.
- (5) On receipt of the report under sub-section (4), the Deputy Commissioner of Taxes shall serve a notice upon the assessee under sub-section (1) of section 83.
- (6) The Deputy Commissioner of Taxes shall, after hearing the person appearing and considering the evidences produced including the findings stated in the report received under sub-section (5) and also considering the other evidences, by an order in writing, assess within thirty days after the completion of hearing or consideration, as the case may be, the total income of an assessee and shall determine the sum payable by the assessee on the basis of such assessment, and communicate the said order to the assessee within thirty days from the date of such order.

(b) As per section 57 of I. T.O, 1984 the following are the consequences of failure to deduct tax at source:

- (1) Without prejudice to any other consequences enacted under ITO 1984 to which the assessee may be liable, be deemed to be an assessee in default in respect of the tax. and
- (2) In addition to such tax, pay an amount at the rate of two percent per month of such tax for the period commencing the day following the expiry of the time within which it is to be paid u/s 59 and ending on the date of the actual payment of the tax.

### Question No. 04

The following are the income of Mr. Rahman for the year ended June 30, 2012. Compute his total income and tax liability.

2  
0

(a) Salary Income;

Basic Salary - Tk. 25,000 p.m

Bonus – 2 months basic salary

House rent allowance – 40% of basic salary

Medical allowance – Tk. 1,500 p.m

Conveyance allowance – Tk. 2,000 p.m

Concessional passage within Bangladesh – Tk. 1,50,000

Subscription to RPF – 10% (Employer's contribution is the same). Interest accrued Tk. 96,000 on P.F balance calculated at 16% p.a.



(b) Interest income (Gross) :

- i. From Leasing Company Tk. 12,47,502
- ii. On Bank Fixed Deposit Tk. 1,38,214
- iii. On Bank Savings Account Tk. 53,790

(c) Income from House Property :

Mr. Rahman has one residential house-one half of which is let out at a monthly rent of Tk. 2,000 and the other half-self occupied

Following expenditures were incurred by Mr. Rahman :

	Taka
Municipal tax	20,000
Repairs and maintenance	60,000
Insurance premium	12,000
Salary of caretaker	30,000

(d) Income from Land :

Sale of paddy from land given on "Adhi" system – Tk. 1,25,000. Sale proceeds from trees of spontaneous growth in Mr. Rahman's land Tk. 20,000

(e) Income from Business :

Share of profit from a partnership firm Tk. 75,000

(f) Capital Gains :

- i. Profit on sale of shares of ABC Ltd (A Private Ltd. Co.) Tk. 60,50,000
- ii. Sale of Shop (Deed Value Tk. 1,92,500), Original cost Tk. 27,750 and tax deducted at source at the time of registration Tk. 3,850 to be assessed u/s. 82C.
- iii. Profit on sale of Shares of XYZ Ltd. Tk. 34,30,501 (a Publicly listed Co.)

(g) Income from other Source :

- i. Dividend (gross) Tk.11,350
- ii. Income from shop rent Tk. 13,200

During the year Mr. Rahman made the following investments –

- i) Life insurance premium (Policy Value Tk. 500,000) Tk. 60,000
- ii) Investment in shares of a listed company Tk. 100,000
- iii) Donation to charitable institutions as approved by NBR Tk. 30,000

**Answer to the Question No. 04**

**Mr. Rahman**

**Income Year ended 30 June 2012**

**Assessment Year 2012-2013**



### Computation of Total Income

Q.REF.N O	PARTICULARS	Taka	Taka
	<b>Income from Salary-u/s-21 read with rule-33</b>		
a.	<b>Basic Salary-25,000 p.mX12</b>		<b>300,000</b>
a.	<b>Bonus-2 months basic Salary-25,000X12</b>		<b>50,000</b>
a.	<b>House Rent allowance-40% of basic Salary</b>	<b>120,000</b>	
	Less:Exemted as per Rule-33A	<u>180,000</u>	0
	(Exempted-Lower of 50% of basic salary e.g Tk-1.50 Lac or		
	Taka-15000 p.m e.g Taka-180,000.00 per year)		
a.	<b>Medical alloance-Tk.1500X12</b>	<b>18,000</b>	
	Less Exempted as per Rule-33I	<u>18,000</u>	0
	(Assumed that actual expenditure is more than the allowance received )		
a.	<b>Conveyance allowance-Tk.2000X12</b>	<b>24,000</b>	
	Less: Exempted as per Rule-33C	<u>24,000</u>	0
a.	<b>Concessional passage within Bangladesh</b>	<b>150,000</b>	
	Less: Exempted as per rule-33G	<u>150,000</u>	0
	(Assume that the passage was given in terms of employment in		
	alternate year and actual expenditure is more than the amount received)		
a.	<b>Employer's Contribution to RPF-10% of Basic Salary</b>		<b>30,000</b>
a.	<b>Interest accrued-16% p.a on P.F</b>	<b>96,000</b>	
	Less: Exempted-14.50% (Para 5(2) of First Schedule to ITO 1984)	<u>87,000</u>	9,000
	<b>A. Total Income from salary=</b>		<b>389,000</b>
	<b>Income from Other Sources-u/s-33-34:</b>		
b.	From Leasing Company(Gross), TDS @ 10%		1,247,502
b.	On the Bank Fixed Deposit(Gross),TDS @ 10%		138,214
b.	On Bank savings account(Gross), TDS @ 10%		53,790
g	Dividend Income-Gross 11350 Less Exempt Tk. 5000 (6th Sch. Part A of ITO 1984)		6,350
d	Sale proceeds from tree		20,000
	<b>B. Total Income from Other Sources=</b>		<b>1,465,856</b>
c	<b>Income from House Property-u/s-24 &amp; 25:</b>		
c	Annual Value: Rental value	24,000	
c	admissible Expenses-		



c	Municipal Tax-50% e.g Taka- 20000/2	(10,000)	
c	Insurance Premium- 50% e.g. Tk. 12,000/2	(6,000)	
c	Repair and Maintenance-25% of taka-24000.00	(6,000)	2,000
g	Shop Rent-(Tk.13200-30% Repair & Maintenance.Since Commercial)		9,240
	<b>C. Total Income from House Property=</b>		<b>11,240</b>
d	<b>Income from Agricultural-u/s-26 &amp; 27:</b>		
	1.Sale of Paddy-On Adhi System		125,000
	<b>D. Total Income from Agriculture=</b>		<b>125,000</b>
e	<b>Income from Business or profession-u/s-28 &amp; 29:</b>		
e	Income from Share profit from Partnership Firm:		75,000
	<b>E. Total Income from Business or profession=</b>		75,000
	<b>Income from Capital Gain-u/s-31 &amp; 32:</b>		
f	Sale of Share of a PVT Ltd Co-ABC Co.		6,050,000
f	Sale of Share of a Public Ltd Co-XYZ Co	3,430,501	
	Less: Exempted as per SRO-269/2010 dated 01.07.2010	3,430,501	
f	Sale of Shop-Tk.(192500-27750), Capital Gain Tk-164,750.00		15,400
	Since TDS of Tk. 3850 is treated as final discharge of tax liability U/S 82C of ITO 1984, the income from this head is(3850X100/25)		
	<b>F. Total Income from Capital Gain=</b>		<b>6,065,400</b>
	<b>Total Income of Mr.Rahma(A+B+C+D+E+F)</b>		<b>8,131,496</b>

<b>Computation of Investment Rebate of Mr. Rahman</b>	Taka	Taka	As per Section 44-2(b)
Employees and Employers Contribution to RPF		60,000	
Life Insurance premium-maximum 10% of Policy		50,000	
Investment in Shares of Listed Company		100,000	
Donation approved by NBR		30,000	
<b>Total Investment</b>		240,000	
<b>ALLOWABLE LIMIT OF INVESTMENT:</b>			
Lower of 20% of Total Income excluding Employers Contribution to RPF e.g Tk-81,40,456-30,000)X20% = Tk.16,22,091.00			
or Taka-1.00 Crore-Lower one.			



So, Here Allowable Investment=Actual Investment	240,000			
Rate	10%			
<b>Investment Tax Credit(Rebate)=240,000X10%</b>	<b>24,000</b>			
<b>Computation of Tax Liability of Mr. Rahman:</b>	<b>Total Income</b>	<b>Tax Rate</b>	<b>Tax amount</b>	
On First Taka-200000	200,000	@0%	Nil	
On next Taka-300000	300,000	@10%	30,000	
On next Taka-400000	400,000	@15%	60,000	
On next Taka-300000	300,000	@20%	60,000	
<b>Sub-Total</b>	<b>1,200,000</b>			
On the balance Tk.(8,131,496-12Lac-60.5 Lac-15,400-Section 82C)	866,096	@25%	216,524	
<b>Total</b>	<b>2,066,096</b>		<b>366,524</b>	<b>-</b>
<b>Gross up-adj.of Section-82C(Final Settlement)</b>	<b>15,400</b>	<b>@25%</b>	<b>3,850</b>	
Tax on Capital Gain-Sale of Pvt. Co's Shares-15%,tk-60,50,000.00	6,050,000	@15%	907,500	
<b>X. Gross Tax Liability</b>	<b>8,131,496</b>		<b>1,277,874</b>	
<b>Tax Rebate as per 6th Schedule-Part-B</b>			<b>24,000</b>	
<b>Net tax liability</b>			<b>1,253,874</b>	<b>Avg. Tax Rate=15.42%</b>
<b>Less :TaxPaid/Advance Tax</b>			<b>Taka</b>	
<b>1. Adjustment of Tax as per 82C(Final settlement)</b>			<b>3,850</b>	
<b>2.TDS as per 53F-Taka-12,47,502@10%</b>			<b>124,750</b>	
<b>3.TDS as per 53A-Taka-138,214@10%</b>			<b>13,821</b>	
<b>4.TDS as per 53F-Taka-53,790@10%</b>			<b>5,379</b>	
<b>5.Rebate from Share of Income of Partnership Firm @15.42%</b>			<b>11,565</b>	
<b>Y. Total Rebate and adjustment</b>	<b>-</b>		<b>159,366</b>	
<b>Net Tax Payable U/S 74 of ITO 1984</b>			<b>1,094,508</b>	



**Question No. 5**

XYZ Limited, a Private Limited Company, is engaged in Deep Sea fishing business for last few years. For the Income year ended on 30<sup>th</sup> June 2012 the company has submitted to you a statement of accounts consisting of Trading and Profit and Loss Account for filing income tax return, As a Manager finance, of the company you have examined the accounts which are as follows :

XYZ Limited  
Trading Account  
For the year ended June 30, 2012

Particulars	Taka	Particulars	Taka
Cost of Diesel	59,416,425	Sales :	
		Export 94,465,822	
Crew, Captain Salary and allowances	20,928,739	Local 59,817,456	
			154,283,278
Catch Incentive & Festival Bonus	4,677,749		
Carrying and Forwarding	99,254		
Packing & Processing	4,204,789		
Fishing Gear	2,947,474		
Vessel Operational Expenses	5,601,743		
Loading & Unloading Expenses	373,350		
Export Expenses	7,656,229		
Fee & Taxes	319,400		
Insurance	7,724,583		
Repairs & Maintenance Expenses	6,810,438		
Gross Profit	33,523,105		
	154,283,278		154,283,278

XYZ Limited  
Profit and Loss Account  
For the year ended June 30, 2012

Particulars	Taka	Particulars	Taka
Directors Remuneration	300,000	Gross Profit	33,523,105
Staff Salary	9,344,035	Income from Dividend	646,646
Staff Bonus	1,530,965	Add :	
		AIT 114,114	
Staff Overtime	121,974		760,760
Contribution to recognized P.F	286,547		
License & Renewal	672,787		
Traveling Expenses	427,548		
Conveyance	125,321		
Entertainment	125,321		
Advertisement	54,875		
Telephone Expenses	494,637		
Car Maintenance	311,458		



Electricity Expenses	401,578		
Printing & Stationery	161,587		
Canteen Subsidy	115,487		
Canteen Gas Expenses	45,154		
Office Decoration	1,377,903		
Office Rent	1,026,647		
Postage & Photocopies	135,487		
Paper & Periodicals	102,154		
Telex & Telegram	120,248		
Security Bills	71,125		
Agency Commission	2,52,000		
WASA	60,548		
Deferred Revenue Written off	1,01,879		
Bank Interest	8,65,128		
Staff Welfare Expenses	4,58,796		
Miscellaneous Expenses	1,48,845		
Depreciation	4,681,665		
Net Profit	10,362,924		
	34,283,865		34,283,865

- (1) The company has paid VAT of Tk. 80,02241 against the payment of cost of diesel which has been refunded for Export earning of Tk. 9,44,65,822.
- (2) There was eleven taxable employees. The company has disbursed total Tk. 35,40,000 out of Tk. 93,44,035 without complying with the provision of section 30 (a).
- (3) The Company has imported packing materials and fishing gear from Korea. The custom authority has collected income tax of Tk. 2,40,500 from this consignment at the time of delivery of goods.
- (4) Wasa bill includes Tk. 30,000 for director's personal residence.
- (5) Excess perquisites of Tk. 360,300 paid to technical staff of the company.
- (6) Crew, Captain salary and allowance include Tk. 360,300 as Income Tax of 5 Engineers engaged on contract basis paid on behalf of the Company to Government Account.
- (7) Insurance expenses charges in Trading Account include Tk. 2,18,500 found to be director's personal yearly premium.
- (8) Miscellaneous expenses include Tk. 25,000 as donation to Local Orphanage Center approved by NBR.
- (9) Office Rent Claimed at Tk. 10,26,647 out of which rent @ Tk. 60,000 per month paid without complying with the provision of section 53A of Income Tax Ordinance 1984.
- (10) Tk.1,50,000 paid as picnic expenses of sister concern of the Company out of Tk. 4,58,796 debited to staff welfare expenses.
- (11) Export turnover tax rebate will be allowed for the company.
- (12) Tax depreciation as calculated with reference to previous year final assessment is Tk. 33,90,000.

You are required to compute total Income, final tax liability allowing credit of tax paid at custom stage and tax paid on dividend income after considering the above fact supplied by the Management.



### Answer to the Question No. 5

XYZ Limited

Computation of total income and tax thereon

Income year ended on June 30, 2012

Assessment year 2012-2013

Particulars	Note	Amount Tk.	Amount Tk.
Net profit as per profit and loss account		10,362,924	
Less : Gross dividend income to be considered separately		(760,760)	
Add : Refund of VAT against export sales	Note – 1	8,002,241	
Add : Accounting depreciation		4,681,665	
Income from business			22,286,070
Add : Inadmissible Expenses :			
Salary	Note – 2	3,540,000	
WASA bill	Note – 3	30,000	
Excess perquisite	Note – 4	360,300	
Insurance expenses	Note – 5	218,500	
Office rent	Note – 6	720,000	
Staff welfare expenses	Note – 7	150,000	
Entertainment expenses	Note – 8	-	
Misc. Expense (donation to orphanage)		25,000	
			5,043,800
Less : Fiscal depreciation			(3,390,000)
<b>Business income</b>			<b>23,939,870</b>
Add : Income from other sources – Dividend			760,760
<b>Total income</b>			<b>24,700,630</b>
Computation of Tax liability			
On business income of Tk. 23,939,870 @37.5%		8,977,451	
On dividend income of Tk. 760,760 @ 20%		152,152	
<b>Total Tax liability</b>			<b>9,129,603</b>
Less : Tax rebate on export earning	Note – 9	2,748,394	
Less : Tax rebate on donation to orphanage	Note – 10	2,500	
Less : AIT collected by customs authority		240,500	
Less : AIT on Dividend Income		114,114	(-3,105,508)
Tax Payable u/s 74 of ITO 1984			<b>6,024,095</b>

Note – 1 : Refund of VAT against export sales.

Since the rate of VAT on export is zero, relevant input VAT turned into cost unless drawn back from the Government. Therefore, the refund of VAT has been added to income.

Note – 2 : Inadmissible Salary.

In pursuance with sec 30 (a) of ITO 1984, payment of salary without deduction of tax at source is an inadmissible expense.

Note – 3 : Inadmissible WASA bill.



The WASA bill relating to director's personal residence is not a business expenditure and therefore disallowed.

Note – 4 : Excess perquisites.

The perquisite in excess of the limit prescribed u/s 30(e) is an inadmissible expense and therefore added back to fiscal income.

Note – 5 : Inadmissible insurance expenses.

The personal insurance premium of the director is not a business expenditure and therefore disallowed.

Note – 6 : Inadmissible office rent.

In pursuance with Sec 30 (aa) of ITO 1984, payment of rent without deduction of tax at source u/s 53A is an inadmissible expense.

Note – 7 : Staff welfare expenses.

The amount spent for the picnic of sister concern is not a business expenses of the assessee and therefore disallowed.

Note – 8 : Computation of allowable entertainment expenses u/s 30(f) of ITO 1984 read with rule 65 of ITR 1984 :

Business profit before entertainment expenses	Tk. 23,914,870
Allowed on 1 <sup>st</sup> Tk. 1,000,000 @ 4%	Tk. 40,000
On the balance Tk. 22,914,870 @ 2%	Tk. 458,298
Total	Tk. 498,298
But restricted to actual expenditure of	Tk. 125,321

Note – 9 : Computation of export turnover tax rebate as per clause 28 part A of the 6<sup>th</sup> Schedule :

Sales	Tk. 154,283,278
Fiscal Profit	Tk. 23,939,870
Fiscal profit on export sales	Tk. 23,939,870/ 154,283,278 X 94,465,822
	Tk. 14,658,099

Tax on the fiscal profit out of export sales 37.5% of 14,658,099= Tk. 5,496,787

Rebate 50% of Tk. 5,496,787= Tk. 2,748,394

Note – 10 In accordance with SRO # 229 of 04.07.2011, donation to an organization approved by Board is considered as CSR expenses and against such CSR expenses, 10% rebate is allowed. [25000X10% =2,500]

## Question No. 6

What is Input Tax? Discuss the conditions to be met for claiming input tax.

## Answer to the Question No. 6

Input Tax:

Input tax means value added tax paid by a registered person on goods imported by him or bought from other registered person including the advance trade VAT suffered on imported input at import stage.



The conditions for obtaining input tax rebate are the followings:

- a. Persons claiming rebate must be registered for the purposes of “full” VAT, not turnover tax or not VAT based on estimated value addition.
- b. All books of accounts and records as prescribed under VAT laws should be maintained and preserved at least for 6 years from the expiry of relevant VAT period.
- c. Rebate to be taken in each tax period. However, delay on reasonable ground may be accepted up to next two consecutive tax period. The Tax payer can claim credit against VAT only, not import duty, supplementary duty and/or income tax at source. However, an exporter can claim credit against import duty and/or supplementary duty under the provision of Duty Exemption and Drawback(DED) system.
- d. The Tax payer must have Bills of Entry for imported goods and VAT Invoices (VAT-II) for local purchases of goods and services and preserve those documents for 6 years from the end of tax period. No credit for input tax shall be allowed against turnover tax or VAT based on estimated value addition.
- (e) The input noted in said bill of entry and challan must be taken inside the place of production or services and to be recorded in purchase account.
- (f) The name, address and registration number of the registered person should be correctly mentioned in said bill of entry and challan patra.
- (g) The rebate should be taken proportionately in case of the production of both taxable and exempted product and services.
- (h) The cost of input must be included in the base value of price declared for the fixation of VAT.
- (i) The cost of input used for the product and service must be paid through banking or electronic system when the amount is Tk.100,000 or above.

#### Question No. 7

Discuss the determination of cost for calculation of VAT.

10

#### Answer to the Question No. 7

In pursuance with Sec. 5 of Value Added Tax (VAT) Act 1991, VAT is leviable upon value. I presume the word cost in the question meant value and accordingly presenting hereunder the legal provisions for the determination of value for the computation of VAT under different economic conditions :-

- (1) In case of imported goods, the value for the computation of VAT is ascertained by adding the amount of import duty, supplementary duty and all other duty and taxes (if any) except the advance income tax with the assessable value as determined under section 25 or 25 (A) of the Customs Act. 1969.
- (2) In case of supply of goods, the value on which VAT shall be payable, shall be the consideration of the goods receivable by the manufacturer or producer or trader from his buyer, which shall include the value of purchase inputs, all costs of the manufacturer or producer or of the trader and where applicable,



paid commission, charges, fee and all other duties and taxes including supplementary duty (except VAT) and profit.

Provided that in the case of supply of any specific goods or class of goods by a trader, the Board may, by notification in official Gazette, for the determination of the base value of VAT, fix the rate and quantum of value addition of the goods or class of goods.

In case of contract based production of branded goods of any registered manufacturer by any other registered producer, the Board may set the procedure of determining the value of goods by Rule.

A producer or importer may, if he intends to supply goods at uniform price printed on the body or container or packet of the goods, shall supply the goods, subject to the prior approval of the Board and on payment of the entire tax, in case of producer at production stage and in case of importer at the stage of supply, in accordance with the procedure set by Rule.

If the Government through any directorate or department fixes the unit price of any product or service with a view to keep their price stable, the VAT and Supplementary Duty at production and service delivery stage shall be payable through back calculation from that fixed price.

(3) The Government may, by notification in the official Gazette, select the goods on which VAT shall be imposed on the retail price. For the purpose of imposing VAT, the retail price of such goods, shall be determined by the producer or manufacturer with the approval of concerned officer, which shall be included all costs, commission, charges, duties and taxes. And such goods shall be sold to the general consumers at that price. The price shall be printed on the body of the goods or on every packages, sacks or cells distinctly, conspicuously and indelibly after putting special brand or mark on the body of the goods.

(4) In the case of rendering of service, VAT shall be imposed on the total receipts.

In respect of any specific service, the Board, may by order, determines the VAT on the basis of actual value addition or fixing specific rate of value addition by notification in the official Gazette.

In case of providing of service by the service provider, free of cost, the Government by Gazette notification may fix minimum VAT.

(5) In case of supply of goods by a registered or register able trader, VAT may be imposed on the basis of total value received or deemed to have been received as determined in any particular tax period, as determined in accordance with the procedure set by Rules.



- (6) Goods on which trade discount is allowed; in the case of such goods the amount of value added tax shall be based on the cost of the goods after deduction of trade discount. Provided that in case where goods are supplied at a discount the cost and the amount of the discount will be shown on the invoice and the quantity of trade discount must be consistent with the normal business policy.
- (7) If the Board, in consideration of public interest and after due investigation is satisfied that it is expedient in the case of any taxable goods or service to fix its tariff value in order to determine Value Added Tax, or where applicable Value Added Tax and supplementary duty the Board may by Gazette notification, fix the tariff of such goods or services.

#### Question No. 8

Define the following term of VAT.

- a. Input.
- b. Commercial documents.
- c. Zero.
- d. Truncated Value.
- e. Trade Service.

#### Answer to the Question No. 8

- a. 'Input' means

- all kinds of raw materials, laboratory reagent, laboratory equipment, laboratory accessories, any type of gases and any material used as fuel, packaging materials, services, machinery and spare parts excepting labor, land, building, office equipment and transport.
- In case of trading, goods imported, purchased, acquired or otherwise procured in any way for sale, exchange or to transfer in any other manner.

- b. 'Commercial documents' means books of accounts, files, documents or papers maintained by a person to record his commercial transaction or to present financial status of his business, namely:-

debit voucher, credit voucher, cash memo, daily accounts of sales and purchase, cash book, journal book, bank account and the documents related thereto, trial balance, ledger, financial statements and notes thereto, profit and loss account, profit and loss appropriation account, bank reconciliation statement and balance sheet, audit report including all relevant documents.

- c. 'Zero' rated taxable goods or services means goods or services which are exported or deemed to have been exported or any food or any material as mentioned in sub section (2) of section 3 of VAT Act 1991, upon which value added tax or where applicable supplementary duty shall not be imposed and all other taxes and duties paid on inputs used for manufacturing of such goods(except Advance Income Tax and the supplementary Duty paid on such inputs used for the manufacturing and producing exported goods, as may be specified in this behalf by the Government by the notification in the official Gazette not to be refunded) shall be refunded.



d. 'Truncated Value' Truncated or short value system is one where VAT at standard 15% charged on the deemed or estimated value addition. Since this is based on a shortened value input tax rebate cannot be obtained excepting on exports or deemed exports.

e. 'Trade Services' VAT is payable by a distributor, agent, wholesaler and retailers on non-exempted goods @ 4% of sales (that is 15% of value added at 26.67%) on a monthly basis within 10 days of the next month through treasury challans. No input tax credit is allowed against such payment of VAT.



## Suggested Answers

### Taxation- II

Nov-Dec 2013

**01. Discuss the changes made by Finance Act 2013 with its effect on the following items.**

10

- a. Charge of Minimum Tax U/S. 16 CCC.
- b. Change of Investment Rebate U/S. 44.
- c. Deduction at source from salaries: newly added sub-section (2A) of section – 50.
- d. Additional powers of enquiry and production of documents by the assessee sec.-116(1).
- e. Requirements of certificate or acknowledgement receipts of return of income in certain cases – Sec. 184A.

**Ans. 01 (a)**

**Changes :** “every Company” is replaced by “every firm having gross receipts of more than taka fifty lakh or every company”.

**Effect :**

The jurisdiction of charging minimum tax has been widened – incorporating firm having gross receipts exceeding taka 50 lakh.

The provision of this section apparently goes against the fundamental & traditional concept of income-tax i.e. tax on income only. Income tax should be based on income, not on gross Receipts or Revenue. Rather income is computed by deducting allowable expenses from Revenue. This basic postulate is obviously ignored in formulating & applying this section.

**Ans.01 (b)**

**Changes :**

- i) The rate of tax rebate has been extended from 10% to 15%
- ii) The aggregate amount of the investment allowance has been increased from Tk. 10 million to Tk. 1 crore 50 lakh
- iii) The percentage of total income as maximum allowable limit of investment has been increased from 20% to 30%

**Effect :**

The changes are encouraging for investment. However, in short term there will be a drop in government revenue but in long term will accelerate GDP growth and ultimately government revenue.

**Ans. 01 (c)**

**Changes :** Incorporation of sub-section 2(A) to Section 50 of ITO 1984:

“2A) The payment under sub-section (1) shall be made by such person with or without deduction of tax in accordance with a certificate, issued by the Deputy Commissioner of Taxes, after being satisfied on an application made by the payee in this behalf, where such certificate specifies that:



(a) no tax shall be deducted from the payee in a case where the tax payable on the total income of the payee has already been deducted or collected from such payee under this Ordinance for the rest of the income year; or

(b) tax shall be deducted at a lesser rate for the rest of the income year in a case where the payee may, after adjusting the tax already deducted or collected from such payee under this Ordinance, be liable to pay a lesser sum of tax than the tax chargeable on his/her total income."

**Effect :**

The requirement of certificate from Deputy Commissioner of Taxes in addition to assessment order of previous income year may cause unnecessary harassment for the assessee.

**Ans. 01 (d)**

**Changes :** "require any such person to produce, or cause to be produced, any accounts or documents which they may consider necessary" is replaced by:

"require any such person or any other person in relation to such enquiry to appear before him at the time and place as directed for providing any information or to produce or cause to be produced necessary documents, accounts or records including any electronic records and systems referred to in the Explanation of sub-section (2) of section 117 (Power of search & seizure) under the possession or control of such person or such other person"

In this relation, Punishment for non-compliance of certain obligations-Section # 164(ee) of the ordinance has been newly added: "(ee) fails to comply with the requirement under sub-section (1) of section 116".

**Effect :**

Enhancement of the power of relevant authority to ask for information and explanation from any person liable, or believed by them to be liable, to assessment under ITO 1984.

**Ans.01 (e)**

**Changes :** "either a certificate from the concerned Deputy Commissioner of Taxes or from any other person authorized by the Board in this behalf, containing the tax payer's identification number or an acknowledgement receipt of the return of income submitted for the immediate preceding assessment year shall be required to be submitted" is replaced by:

"a person shall be required to submit an acknowledgement receipt of the return of income filed for the immediate preceding assessment year or a certificate from the concerned Deputy Commissioner of Taxes or a computer generated certificate communicated by a computer system as may be authorized by the Board in this behalf or, in case of an old assessee, a certificate by the Deputy Commissioner of Taxes containing Taxpayer's identification Number and assessment completion information"

**Effect :**

Incorporation of "computer generated certificate" is advancement while for an old assessee "a certificate by the Deputy Commissioner of Taxes" may cause harassment.

- |     |                                      |    |
|-----|--------------------------------------|----|
| 02. | a. Who is liable to pay advance tax? | 02 |
|     | b. How advance tax is computed?      | 02 |
|     | c. How advance tax is payable?       | 02 |



d. B Ltd. computed its advance tax payable for income year 2012-2013 based on latest assessed income of Tk. 500,000 for the income year 2009-2010. Assessment for the income year 2010-2011 was completed on 15 April 2013 at a loss of Tk. 600,000. Calculated the amount of advance tax to be paid by B Ltd. in each quarter for the assessment year 2013-2014.

**Ans. 2 (a) :**

**According to section 64 of ITO 1984**

Advance tax shall be payable by an assessee during each financial year if the total income of the assessee for the latest income year in respect of which he has been assessed by way of regular assessment, or has been provisionally assessed exceeds four lakh taka. Income from "Agricultural Income" and "Capital gains" shall not included in computation of income.

A new assessee who has not been assessed to tax previously is also liable to pay advance tax if his income during any financial year likely to exceed four lakh taka.

**Ans. 2 (b) :**

**According to section 65 of ITO 1984**

The amount of advance tax payable by an assessee in a financial year shall be the amount equal to the tax payable on his total income of the latest income year as assessed on regular basis or provisionally, as the case may be, as reduced by the amount of tax required to be deducted or collected at source.

The tax shall be calculated at the rates in force in respect of the financial year for which income applied.

**Ans. 2 (c) :**

**According to section 66 of ITO 1984**

Advance tax is payable in four equal installments on 15th September, 15th December, 15th March, and 15th June. If the estimated income of any financial year is less than the last assessed income, the assessee may pay the advance tax on the basis of estimates.

In case of new assessee by 15 June of the financial year.

**Additional condition**

If before the fifteenth day of May of the year, an assessment of the assessee is completed in respect of an income year, later than that on the basis of which the tax was computed the assessee shall pay in one installment on the specified date or in equal installments on the specified dates, if more than one falling after the date of the said assessment, the tax computed on the revised basis as reduced by the amount, if any, paid in accordance with the original computation.

**Ans. 2(d) :**

**Calculation of the amount of advance tax :**

Here the latest assessed income is Tk. 500,000 for the income year 2009-2010.

Amount of Tax = Tk. 500,000 X 37.5% = Tk. 187,500.

**Payable in 4 Quarterly installments**



Date of installments	Installment due (Tk.)	Paid (Tk.)
15 <sup>th</sup> September 2012	46,875	46,875
15 <sup>th</sup> December 2012	46,875	46,875
15 <sup>th</sup> March 2013	46,875	46,875
15 <sup>th</sup> June 2013	46,875	

According to section 66 of ITO 1984 the last installment is not required to be paid because the assessment for the income year 2010-2011 was completed on 15 April 2013 at a loss of Tk. 600,000.

#### Relevant information

If before the fifteenth day of May of the year, an assessment of the assessee is completed in respect of an income year, later than that on the basis of which the tax was computed the assessee shall pay in one installment on the specified date or in equal installments on the specified dates, if more than one falling after the date of the said assessment, the tax computed on the revised basis as reduced by the amount, if any, paid in accordance with the original computation.

03. The following particulars of income of Mr. Ali Ahmed are available for the assessment year 2013-2014 : 5

Income from house property	Taka 100,000
Business income (after allowing for current year's depreciation of Tk. 20,000)	Taka 70,000

The following sums have been brought forward from the preceding year :

Unabsorbed depreciation	Taka 80,000
Business loss	Taka 50,000

Deputy Commissioner of taxes is proposing to assess him on a total income of Tk. 100,000 by setting off only of the business loss of Tk. 50,000 and part of the unabsorbed depreciation of Tk. 20,000 against the business income of Tk. 70,000. Is he right in his action? Explain.

**Ans. 3 :**

The DCT is not right in his action.

The assessment should be done in the following manner :

Particulars	Taka
Business Profit / (loss): Profit for the year	70,000
Previous business "loss" – b/f	(50,000)
	20,000
Less : Unabsorbed depreciation	(20,000)
Business profit	NIL
Property income	100,000
Unabsorbed depreciation c/f	(60,000)
<b>Taxable Income</b>	<b>40,000</b>

Mr. Ali Ahmed should not accept the DCT's proposal. He should submit the proposal which is in line with law. Moreover if the DCT still remain in his decision and assessed in his (DCT's) own view then he (Ali Ahmed) may prefer an appeal to the appellate authority.



04. The following are the income of Mr. Azad for the year ended June 30, 2013. Compute his total income and tax liability.

20

<b>a.</b>	<b>Salary Income</b>	
	Basic Salary	4,20,864
	Festival Bonus	70,144
	House Rent Allowance	3,75,735
	Entertainment Allowance	4,173
	Conveyance Allowance	35,072
	Other Allowance	16,262
	Employees' Contribution Provident Fund	42,086
	Tax Deducted from Salary	12,000
<b>b.</b>	<b>House Property Income</b>	
	House Rent	2,97,600
	City Corporation Tax	9,000
	Salary of Security Guard	48,000
	Salary of Sweeper	12,000
<b>c.</b>	<b>Income from Business</b>	3,78,975
<b>d.</b>	<b>Income from partnership (A Real estate Co.) (Tax deducted at source Tk. 65,280)</b>	5,96,400
<b>e.</b>	<b>Income from land sale (Capital gain) (TDS Tk. 40,000)</b>	1,60,000
<b>f.</b>	<b>Income from share business U/S. 32(7)</b>	89,74,071
<b>g.</b>	<b>Dividend Income (Gross)</b>	12,04,374
<b>h.</b>	<b>Interest from SB A/C (Gross)</b>	966
<b>i.</b>	<b>Income from Fisheries Business</b>	4,03,000
<b>j.</b>	<b>Income from poultry firm (investment in Govt. Bond)</b>	2,05,000
	Notes :	
1.	Purchase 5 years Bangladesh Sanchaya Patra	2,00,000
2.	Investment in DPS	1,20,000
3.	Advance tax for car registration	15,000
4.	The assessee has a flat in Basundhara R/A but was fallen vacant due to non-connection of Electricity and GAS.	
5.	Assessee total wealth is Tk.	12,50,90,210



Ans. 4 :

Computation of total income :

**Mr. Azad**  
Assessment Year 2013-2014  
Income Year 2012-2013

		Taka	Taka
a.	<b>Income from Salary-u/s-21:</b>		
	Basic Salary		4,20,864
	Festival Bonus		70,144
	House Rent Allowance	3,75,735	
	Less : Exemption	2,10,432	
			1,65,303
	Entertainment-as per rule 33H		4,173
	Conveyance Allowance	35,072	
	Less : Exemption-as per rule 33C	30,000	
			5,072
	Other Allowance-as per rule 33J		16,262
	Employees Contribution to PF		42,086
	A.Total Income from Salary		<b>7,23,904</b>
b.	<b>House property income-u/s-24-25 :</b>		
	House Rent	2,97,600	
	Less : 25% Repair-Since residential	74,400	
	City Corporation Tax	9,000	83,400
	B.Total Income from House Property		<b>2,14,200</b>
	<b>Income from business or profession-u/s-28:</b>		
c.	Income from Business		3,78,975
d.	Income from Partnership		5,96,400
f.	Income from share business-Exempted as per SRO-269/2010		Nil
i.	Income from Fisheries Business		4,03,000
j.	Income from Poultry Firm-para-34 of 6 <sup>th</sup> Schedule part-A of ITO-1984-(Exempted as the assessee has invested 10% in Govt. Bond)		Nil
	C.Total Income from Business or Profession		<b>13,78,375</b>
	<b>Capital Gain-u/s-31:</b>		
e.	Income from Capital gain-from Land Sale		1,60,000
	D.Total Income from Capital Gain		<b>1,60,000</b>
	<b>Income from Other Sources-us/33:</b>		
g.	Dividend Income	12,04,370	
	Less: Exempted as per para-11A of 6 <sup>th</sup> Schedule part-A of ITO-1984.	10,000	11,94,370
h.	Interest Income		966
	E.Total Income from Other Sources		<b>11,95,336</b>
	Total Income(A+B+C+D+E)		<b>36,71,815</b>



**Calculation of Tax Liability :**

Taxable income Tk. 36,71,815

i.	On Tk. 2,20,000	NIL	
ii.	On Tk. 3,00,000	10%	30,000
iii.	On Tk. 4,00,000	15%	60,000
iv.	On Tk. 3,00,000	20%	60,000
v.	Balance (24,61,815 – 4,03,000 = 20,48,815	25%	5,12,204
	Income on Fisheries Business on Tk. 4,03,000	5%	20,150
			6,82,354
	Less : Investment Rebate		
	X. Actual Investment		
	PF	84,172	
	5 Years S. Patra	2,00,000	
	DPS (Actual 1,20,000 but Maximum 60,000)	60,000	
		3,44,172	
	Y.(Total Income-Employers Cont. to RPF)X30%=(3671815-42086)X.30	10,88,919	
	Z.Taka-1.50 Crore	150000000	
	<b>Allowable Investment-Lower of X or Y or Z</b>	<b>344,172</b>	
	Less: 15% of Actual Investment		51,626
			6,30,728
	Less : Tax Rebate of Partnership Firm		
	5,96,400 X 6,30,728		1,02,447
	<b>36,71,815</b>		<b>5,28,281</b>
	Add :Surcharge 15%		79,242
	<b>Total Tax Liability</b>		<b>6,07,523</b>
	<b>Tax Paid</b>		
	On Salary	12,000	
	Car Tax	15,000	
	Dividend Income	1,20,437	
	Interest Income	97	
	Land Sale	40,000	
			1,87,534
	<b>Tax to be paid u/s. 74 Tk.</b>		<b>4,19,989</b>

**Notes:**

- 1.It is assumed that disposal of Land has been done after no more than five years as per para-2b of the second schedule;
- 2.It is assumed that P.F is a RPF and employer's contribution has been erroneously typed as employee's contribution.
3. Since net wealth is more than 10 crore so Surcharge will be 15% instead of 10% as per Finance Act-2013.



5. ABC Telecom Ltd. is a listed telecom company Enjoying Tax holiday since 1st September 2010 declared dividend 10% for the year and no dividend was paid last year. Statement of Financial position of the company as at June 30, 2013 given below:

Particulars	2012-2013	2011-2012
<b>Non Current assets</b>		
Property, Plant and Equipment (net of accumulated depreciation)	1,469,055,265	1,745,945,621
License fees	433,333,333	466,666,667
Investment	35,000,000	-
	<b>1,947,388,598</b>	<b>2,212,612,288</b>
<b>Current Assets</b>		
Receivables	56,734,179	54,512,957
Advances, Deposits ad Prepayments	12,364,972	12,543,768
	<b>69,099,151</b>	<b>67,056,725</b>
<b>Total assets</b>	<b>2,016,487,749</b>	<b>2,279,669,013</b>
<b>Equity and Capital</b>		
Paid up Capital	500,000,000	500,000,000
Tax Holiday Reserve	424,409,174	137,061,174
Retained Earnings	636,613,761	205,591,761
<b>Total Equity and Capital</b>	<b>1,561,022,935</b>	<b>842,652,935</b>
<b>Non Current liability</b>		
Loan net of current maturity	102,632,982	442,632,982
<b>Current liability</b>		
Loan current portion	340,000,000	978,390,964
Payables, accruals and provisions	12,831,832	15,992,132
<b>Total Current liability</b>	<b>352,831,832</b>	<b>994,383,096</b>
<b>Total Liability</b>	<b>2,016,487,749</b>	<b>2,279,669,013</b>

Month wise income before tax given below: Figures in million

Month	International Gate way (IGW)	Access Network Services (ANS)	Dividend income
July '12	30,250,000	11,340,000	
August '12	44,190,000	14,510,000	
September '12	34,820,000	15,930,000	3,950,000
October '12	47,000,000	18,100,000	
November '12	48,250,000	19,360,000	
December '12	44,090,000	14,100,000	3,870,000
January '13	41,020,000	12,130,000	
February '13	44,890,000	14,900,000	
March '13	45,670,000	15,780,000	3,800,000
April '13	49,440,000	19,550,000	
May '13	41,110,000	17,230,000	
June '13	40,210,000	19,320,000	3,560,000
<b>Total</b>	<b>510,940,000</b>	<b>192,250,000</b>	<b>15,180,000</b>



Other information:

1. tax deducted at source Tk. 81,236,721 which includes Tk. 1,518,000 deducted from Dividend income and the balance from IGW bill;
2. excess perquisite given by the company Tk. 3,782,925;
3. entertainment expenses Tk. 24,572,890;
4. depreciation charged Tk. 231,890,356 but as per third schedule depreciation in BDT 312,098,563;
5. amortization of license fees Tk. 33,333,333;
6. provision for gratuity Tk. 1,000,000;
7. provision for bad debts Tk. 5,000,000;
8. business promotion expenses Tk. 1,345,308; and
9. advertisement Tk. 650,000
10. Directors' Remuneration Tk. 25,000,000.

The company has deducted tax and VAT except Business promotion expenses Tk. 1,345,308, advertisement Tk. 150,000 and Directors' remuneration of Tk. 25,000,000. The company paid withheld tax and VAT with penalty against directors' remuneration before submission of return.

Requirements

25

1. Compute total taxable income
2. Compute net tax payable

Ans. 5 :

**ABC Limited**  
**Income Year 2012-2013**  
**Assessment year 2013-2014**

Month	IGW	ANS	Dividend income	Total
July '12	30,250,000	11,340,000		41,590,000
August '12	44,190,000	14,510,000		58,700,000
September '12	34,820,000	15,930,000	3,950,000	54,700,000
October '12	47,000,000	18,100,000		65,100,000
November '12	48,250,000	19,360,000		67,610,000
December '12	44,090,000	14,100,000	3,870,000	62,060,000
January '13	41,020,000	12,130,000		53,150,000
February '13	44,890,000	14,900,000		59,790,000
March '13	45,670,000	15,780,000	3,800,000	65,250,000
April '13	49,440,000	19,550,000		68,990,000
May '13	41,110,000	17,230,000		58,340,000
June '13	40,210,000	19,320,000	3,560,000	63,090,000



<b>Total</b>	<b>510,940,000</b>	<b>192,250,000</b>	<b>15,180,000</b>	<b>718,370,000</b>
Less: Income of July '12 & August '12 being 100% tax holiday.u/s-46B	74,440,000	25,850,000	-	100,290,000
	<b>436,500,000</b>	<b>166,400,000</b>	<b>15,180,000</b>	<b>618,080,000</b>
Less: On balance 60% tax holiday-u/s-46B	261,900,000	99,840,000	-	361,740,000
Less: Dividend Income-exempted as per 11A of 6 schedule part A			10,000	10,000
Taxable Income	174,600,000	66,560,000	15,170,000	256,330,000
<b>Add: Disallowances for separate consideration -</b>				
-Depreciation as per accounts	168,492,240	63,398,116		231,890,356
-Entertainment expenses	17,854,737	6,718,153	-	24,572,890
-Provision for gratuity	726,603	273,397	-	1,000,000
-Provision for bad debts	3,633,015	1,366,985	-	5,000,000
<b>Add: Disallowed expenses</b>				
-Excess perquisite	2,748,685	1,034,240	-	3,782,925
-Business promotion expenses	977,505	367,803	-	1,345,308
-Advertisement	108,990	41,010	-	150,000
	<b>369,141,775</b>	<b>139,759,704</b>	<b>15,170,000</b>	<b>524,071,479</b>
Less : Allowable expenses separate consideration				
Depreciation as per Third Schedule	226,771,768	85,326,795	-	312,098,563
	<b>142,370,007</b>	<b>54,432,909</b>	<b>15,170,000</b>	<b>211,972,916</b>
Entertainment expenses (4% on 1st 1,000,000+2% on balance amount)	(2,867,400)	(1,108,658)	-	(3,976,058)
Total Taxable Income	139,502,607	53,324,251	15,170,000	207,996,868
Income tax	79,718,721	14,664,169	3,034,000	97,416,890
Add: Additional Charge U/S 16B	--	21,489,311	-	21,489,311
Advance tax	79,718,721	-	1,518,000	81,236,721
<b>Net tax payable</b>	<b>-</b>	<b>36,153,480</b>	<b>1,516,000</b>	<b>37,669,480</b>

**Notes :**

1. It is assumed that ABC Telecom is not a Mobile Company.
2. Tax on IGW Tk-79,718,721(Tk-81,236,721-15,18,000) as TDS u/s-82C,related with Section-52R.
3. Expenses are allocated on the basis of revenue.
4. Tax deducted from IGW considered u/s 82c, tax rate for ANS income 27.5% and Dividend income 20%



5. Additional tax U/S 16B shall be payable as the Company declared dividend less than 15%.

Accumulated profit as on June 30, 2012	342,652,935
Add: Profit for the year as per accounts	718,370,000
<b>Total Accumulated profit</b>	<b>1,061,022,935</b>
Less: Paid up Capital	(500,000,000)
Less: Dividend paid	(50,000,000)
Less: Tax paid U/S 74	(81,236,721)
<b>Undistributed profit</b>	<b>429,786,214</b>
Additional Tax	21,489,311

6. Write your arguments against the following grounds of appeal.
- Sales proceeds of a land Tk. 79,000,000 deposited in the bank account of a company. The land was in the name of the chairman of the company but the land was not shown in the wealth statement of the chairman's personal tax file. The company claimed the amount as loan from chairman but The DCT added as income of the company and upheld by CT(A). **04**
  - The DCT estimates Gross profit 36% of last year instead of shown GP 25% because the company failed to produce all the vouchers of raw materials, factory overhead and added Tk. 40,500,000 with total income. **03**
  - The DCT computed tax liability TK. 230,000,000 and advance tax deposited by the company Tk. 7,800,000 against income tax provision of Tk. 10,000,000. The DCT charged interest because Tk. 7,800,000 is less than 75% of the claimed tax. **03**

**Ans. 6 (a)**

The DCT and CT (A) both are not justified to add the sum because the land is in the name of the chairman and the sales proceeds belongs to the chairman. The company received the money as loan from the chairman through banking channel and accordingly, the company owes to the chairman for the same amount.

**Ans. 6 (b)**

The estimation of GP ratio to 36% against 25% shown by the company is unlawful. GP of a company is largely dependent upon the purchase and sales price of the products traded by the company. However, the DCT can disallow expenses for non-submission of supporting documents on a ground that those are not business expenses.

**Ans. 6 (c)**

The DCT is not justified to charge interest because as per section 73 (1) if an assessee paid advance tax on the basis of his own estimate is less than 75% then the assessee shall pay 10% simple interest on the shortfall amount but the assessee paid tax more than 75% of tax provision.

07. State the provision of section 17 of Value Added Tax, 1991 regarding self registration. What are the procedures of registration under Rule 9?



**Ans. 7 :**

**According to section 17 of Value Added Tax, 1991 :**

Any person exempted from compulsory registration may apply for voluntary registration, as a supplier of taxable goods or renderer of taxable service and the authorized officer shall, if he is satisfied that the application is in order in all respects, register the applicant and give him a registration certificate mentioning therein his business identification number.

**According to rule 9 of Value Added Rule 1991 :**

**Procedure of registration -**

If the annual turnover of the supplier of taxable goods or taxable service is not less than taka eighty lacs, he shall have to submit an application for registration in Form 'Musak-6' to a Divisional officer or to an officer, not below the rank of Assistant Commissioner specified by an order by the Board in this behalf.

If the turnover of a person in respect of the taxable goods supplied or taxable service rendered becomes, at any time during twelve consecutive months after his being exempt from the requirement of registration he shall within thirty days of the expiry of such period, submit an application for registration to the Divisional Officer or an officer, not below the rank of an Assistant Commissioner, specified by order by the Board in this behalf.

A person who intends to start the business of supplying taxable goods or rendering taxable service shall, before starting the business, apply to the divisional office or such officer, not below the rank of assistant Commissioner, as the Board may, by order, empower in this behalf, for registration, if the annual turnover of the business is estimated to be at least taka eighty lakhs.

Where more than one taxable goods or service are supplied or rendered or import or exports are made from the same place of manufacture or production or rendering of service or import or export, only one registration shall be required.

A person required to be registered shall, along with the application for registration submitted in Form Musak-7 a declaration containing particulars of premises, plant, capital machineries and fittings and goods to be produced or purchased and sold or stocked and major inputs.

Any person who is involved in import or export of any goods shall submit application to the divisional in charge or to an officer directed by board not below the rank of assistant commissioner.

**08. What are the offences and penalties under section 37 (i) and Rule 35 of VAT Act Rules, 1991?**

**4**



Ans. 8 :

The offences and penalties as provided under Section 37 (i) of Value Added Tax Act 1991 are the followings:

Serial No.	Description of the Offence	Penalty
a.	Fails to submit an application for registration under this Act, though it is required to submit such an application	Minimum Taka 10,000 and maximum Taka 20,000
b.	Fails to submit a return within the specified date	Minimum Taka 10,000 and maximum Taka 20,000
c.	Fails to inform the value added tax officer about any change of information in relation to registration	Minimum Taka 5,000 and maximum Taka 10,000
d.	Fails to comply with the direction of any summons issued under section 25 of VAT act 1991	Minimum Taka 10,000 and maximum Taka 30,000
e.	Failure to maintain required files in electronic cash register or point of sales software or in computer as per Section 37 (2) JA of VAT Act 1991	Minimum Taka 20,000 and maximum Taka 50,000
f.	Violates any other provision of VAT Act 1991	Minimum Taka 10,000 and maximum Taka 30,000

The offence and penalties under Rule 35 of Value Added Tax Rule 1991 :

A registered person who contravenes any provision of Value Added Tax Rule 1991 shall be liable to a penalty of an amount, being not less than half, and not more than equal, the amount of value added tax or, where applicable, the value added tax and supplementary duty leviable upon the goods and services concerned, and the goods or service (where applicable) related to such contravention shall be forfeited to the Government. However, in case of an offence not involving evasion of tax, the amount of penalty shall be minimum Taka 5,000 and maximum taka 10,000.

09. Mention the rate of VAT based on value additions fixed by NBR applicable to the following service providers :

- i) Carrying contractor
- ii) Advertising firm
- iii) Printing press
- iv) Information Technology Enabled Services
- v) Sponsorship Services
- Vi) Human Resource Suppliers
- Vii) Building floor Cleaning and maintenance firm
- viii) Event management firm
- ix) Chartered Plane or Helicopter
- x) Other Miscellaneous Services



Ans. 9 :

Particulars	Value addition	VAT rate
i) Carrying contractor:		
In case of carrying of petroleum product	15% of total receipt	2.25%
In case of any other product	30% of total receipt	4.5%
ii) Advertising firm	100% of total receipt	15%
iii) Printing press	100% of total receipt	15%
iv) Information Technology Enabled Services	30% of total receipt	4.5%
v) Sponsorship Services	50% of total receipt	7.5%
vi) Human Resource Suppliers	100% of total receipt	15%
vii) Building floor Cleaning and maintenance firm	100% of total receipt	15%
viii) Event management firm	100% of total receipt	15%
ix) Chartered Plane or Helicopter	100% of total receipt	15%
x) Other Miscellaneous Services	100% of total receipt	15%

10. Write short on following item VAT :

- Current Account
- Penalty for False declaration of input tax
- Retail trade service

6

Ans. 10 :

**i) Current Account :** An account which is maintained in prescribed pro-forma Mushak 18 by a registered person under Rules 22 of VAT Rules 1991. The accounts comprising of ten columns and contains cross reference of purchase and sales, output tax payable, treasury deposit and input output tax rebate. A registered person shall deposit into the treasury of and on so that the output tax could be paid from that deposit including input tax rebate.

**ii) Penalty for False declaration of input tax :** If a tax payer makes false declaration relating to credit of input tax, he may be penalized under section 37 of the VAT Act, 1991 to the extent of minimum half and maximum equal to the amount of tax evaded.

**iii) Retail trade service :** In consideration of the difficulties in keeping books of accounts and to maintain other formalities the government has introduced lump sum VAT payment system for retail trade service providers. The VAT payable by retail trade service providers are as follows:

Serial no.	Applicable in Areas	Maximum annual value addition	Rate of Value Added Tax	Minimum Value Added Tax payable
1.	Dhaka and Chittagong City Corporation area	Tk. 73,334	15%	Tk. 11,000
2.	Other city Corporation areas	Tk. 53,334	15%	Tk. 8,000
3.	Municipal area in the district town	Tk. 40,000	15%	Tk. 6,000
4.	Other areas of the country	Tk. 20,000	15%	Tk. 3,000

The retail trade service providers are allowed to maintain cash memo and accounts in own system and submit return on monthly basis.



## TAXATION-II

May-June 2014

### Question No. 1:

- (a) Explain the following: 6
- (i) Undistributed Profit of a listed company under Section 16B of the Income Tax Ordinance 1984
  - (ii) Excess Profit Tax of a banking company under Section 16C of the Income Tax Ordinance 1984
  - (iii) Charge of minimum tax on a firm under Section 16CCC of the Income Tax Ordinance 1984
- (b) Name the five different methods to determine the arm's length price in relation to an international transaction mentioned in Section 107C of the Income Tax Ordinance 1984. Is there any statutory requirement to furnish a report from a Chartered Accountant in the case of international transactions? When? 5
- (c) Mention the allowable limits for the following expenses under the Income Tax Ordinance, 1984: 5
- (i) Perquisites under Section 30 (e) of the Income Tax Ordinance 1984:
  - (ii) H. O. Expenses in the case of a foreign company not incorporated in Bangladesh.
  - (iii) Royalty, Technical Services fees, and technical know how fee.
  - (iv) Entertainment expenses incurred by a company
  - (v) Overseas Travelling Expenses by a director of a company.

### Answer Q. No. 1(a):

- (i) According to Section 16B of the Income Tax Ordinance 1984 (ITO 1984) where a public limited company, not being a banking or insurance company, listed with any stock exchange in Bangladesh, has not issued, declared or distributed dividend or bonus share equivalent to at least 15% of its paid up capital to its shareholders within a period of six months immediately following any income year, the company shall be charged additional tax at the rate of five percent on the undistributed profit in addition to tax payable under said Ordinance. Here "undistributed profit" means accumulated profit including free reserve.
- (ii) According to Section 16C of the ITO 1984 where a banking company shows profit in its return of income for an income year at an amount exceeding fifty percent of its capital together with reserve, the company, in addition to tax payable under said Ordinance, shall pay an excess profit tax for that year at the rate of fifteen on so much of profit as it exceeds fifty percent of the aggregate sum of the capital and reserve as aforesaid.
- (iii) According to Section 16CCC of the ITO 1984 every firm having gross receipts of more than taka fifty lakh or every company shall, irrespective of its profits or loss in an assessment year for any reason whatsoever, including the sustaining of a loss, the setting off of a loss of earlier year or years or the claiming of allowances or deductions (including depreciation) allowed under the Ordinance, be liable to pay minimum tax at the rate of 0.30% (reduced from 0.50% by Finance Act 2014) of the amount representing such firm's or company's gross receipts from all sources for that year.
- Here 'gross receipts' means-
- ▷ all receipts derived from the sale of goods;
  - ▷ all fees or charges for rendering services or giving benefits including commissions or discounts;
  - ▷ all receipts derived from any heads of income.

### Answer Q. No. 1(b):

Five different methods to determine the arm's length price in relation to an international transaction mentioned in Section 107C of the ITO 1984 are as follows:



- (i) comparable uncontrolled price method;
- (ii) resale price method;
- (iii) cost plus method;
- (iv) profit split method;
- (v) transactional net margin method;

According to Section 107F of the ITO 1984 every person who has entered into international transaction or transactions the aggregate of value which, as recorded in the books of account, exceeds the 3 crore during an income year shall furnish, on or before the specified date in the form and manner as may be prescribed, a report from a Chartered Accountant.

**Answer Q. No. 1(c):**

The allowable limits for the stated expenses under the ITO 1984 are as follows:

Sl. #	Expenses	Allowable limits
(i)	Perquisites as defined in section 2(45)	Tk. 3.50 lakh in an income year as per Section 30 (e) of the ITO 1984
(ii)	H. O. Expenses in the case of foreign company not incorporated in Bangladesh	10% of the net profit disclosed in the statement of accounts, Section 30 (g)
(iii)	Payment of Royalty, Technical Services fees, and Technical know how fee	8% of the net profit disclosed in the statement of accounts, Section 30 (h)
(iv)	Entertainment expenses incurred by a company	(a) On the first taka 10 lakh of income, profits and gains of the business or profession computed before making any allowance in respect of expenditure on entertainment : at the rate of 4%. (b) On the balance of income, profits and gains of the business or profession computed in the manner aforesaid: at the rate of 2% (Rule 65 of the Income Tax Rules 1984).
(v)	Overseas Travelling Expenses by a director of a company	Limited to 1% of the disclosed turnover 30(k)

**Question No. 2:**

Your firm has assigned you the responsibility of tax planning for its clients, and has recently referred the following cases to you for your advice:

- (a) ABC Ltd. is a parent company of a group of private limited companies comprising three companies. The other two companies are DEF Ltd. and GHI Ltd. Mr. X, FCA holds 1% shares in DEF Ltd., and is also a director of the company. He does not hold any share in ABC Ltd. and GHI Ltd.

It has been decided that Mr. X will be employed by the Group as the group CFO with effect from 1 July 2014 at a gross monthly salary of Tk. 1,80,000/= per month plus 2 festival bonuses, each bonus being one month's full basic salary. He will not get any other benefit. He will work for all the three companies.

Currently Mr. X lives in an apartment at Gulshan at a rental of Tk. 50,000/= per month. He also pays common service charges of Tk. 5,000/= per month. He will continue to live in the same apartment. Mr. X confirms that he spends on an average Tk. 2,000/= per month on medical expenses for himself and his dependent family members. He is 55 years old.

**You are required to advise as to how the gross monthly salary should be broken down into basic salary and allowances so that the tax expenses are minimized to an optimum level,**



considering the interests of both the employee and employer(s). Your advice should be based on the current provisions of Income Tax Ordinance 1984 and its Rules. 7

- (b) Mrs. A is 66 years old and her total income for tax purposes for the income year 2013-2014 is estimated to be TK. 40,00,000/=. Currently she has idle fund of TK. 18,00,000/= lying in her bank account (current account). She reckons that on 30 June 2014 she will have the same amount of idle fund in hand, and that she will have more idle fund in hand during the next five income years.

Now she is considering making investments as follows:-

- (i) 5-year FDRs at an interest rate of 13% p.a.; or/ and
- (ii) 5-year savings certificates (Bangladesh Sanchaya Patra) with an average interest rate of 12% p.a.

Since FDR interest rate is higher, Mrs. A wants to invest the entire amount of TK. 18,00,000/- in 5-year FDRs. In any case she is not agreeable to invest in any other type of asset except for the above two. She has not made any investments in the income year 2013-2014.

Where should Mrs. A invest? How will Mrs. A be benefitted if she follows your advice? Your advice should be based on the current provisions of Income Tax Ordinance 1984 and its Rules and the earnings potential. The compounding of interest is done on yearly rest in both the cases. Ignore time value of money. 5

- (c) ABC Ltd is a private limited company, expecting to generate a net profit before tax of TK. 2 crore in the accounting year ending 30 June 2014. The company needs to purchase a motor vehicle and a general purpose machine, costing Tk. 30 lac each, within a period of maximum another forty days. As on 12 June 2014, ABC Ltd. has a surplus fund of Tk.30 Lac which it can now either invest in FDR at 10% p.a. interest for one month or use in purchasing any of the above two fixed assets. The motor vehicle can be put in use within 5 days from the date of purchase. But the machine cannot be put in use before the third week of July 2014. The company is expected to generate at least an additional surplus fund of Tk. 30 lac in the second week of July 2014. The company's paid-up share capital is Tk. 5 crore.

What should the company do with Tk. 30 lac. additional fund currently in hand, giving due consideration to the opportunities of tax savings and additional income? Your advice should be based on the current provisions of Income Tax Ordinance 1984 and its Rules. Make necessary assumptions, if required. 4

#### Answer Q. No. 2 (a):

An effective salary tax planning involves providing the maximum benefits to the employees of an organization considering the maximum allowable limit of perquisite of Tk.350,000 under Section 30 (e) of the Income Tax Ordinance (ITO) 1984.

From the information given in the question it appears that though Mr. x holds 1% share in DEF Ltd and a director of the company. He is not director of any of the other companies under the group. As such, in presence of employer-employee relationship he is eligible for exemptions allowed under Rule 33 (2) (b) of the Income Tax Rules (ITR) 1984. It is beneficial to split his monthly salary among the three companies. As per Section 2 (45) of the ITO 1984, festival bonus is excluded from the ambit of perquisite and fully taxable under Rule 33J of the ITR 1984. So festival bonus is not relevant information here.

	ABC	DEF	GHI	Total
Gross salary receivable	60,000	60,000	60,000	180,000
Festival Bonus	75,778	75,778	75,778	27,333
Break up of Gross salary	60,000	60,000	60,000	180,000
Basic Salary	37,889	37,889	37,889	113,667
House rent allowance	18,944	18,944	18,944	56,833
Conveyance allowance	1,500	1,500	1,500	4,500
Medical Allowance	1,667	1,667	1,666	5,000



**Required documentation:**

Each company should provide separate appointment letter to Mr. X, FCA

**Answer Q. No. 2 (b):**

Investment decision can be taken considering the net proceeds to Mrs. A.

Total Matured Fund	
Principal Amount	
Interest Accrued	
Tax payable on interest	
Saving from investment tax credit (AY 2014-15)	
Net proceed from investment decision	
Additional proceed from investment in savings certificate	

FDR	Savings Certificate
3,316,383	3,172,215
1,800,000	1,800,000
1,516,383	1,372,215
(200,346)	(169,443)
-	180,000
1,316,037	1,382,772
	66,735

**Tax payable on interest**

	Amount	Slab rate
On first Tk.	275,000	0%
On next Tk.	300,000	10%
On next Tk.	400,000	15%
On next Tk. (500,000 and 397,215)		
		20%
On remaining Tk 41,383		25%

-	-
30,000	30,000
60,000	60,000
100,000	79,443
10,346	
200,346	169,443

**Investment Tax Credit**

Investment tax credit is allowed up to

30% of total income 1,200,000

Actual Investment 1,800,000

Maximum Limit 15,000,000

Lower one is eligible for investment tax credit. So eligible amount is Tk. 1,200,000.

**Assumptions**

1. Assumed that Mrs. A will make investment by 30 June 2014.
2. Interest income will be assessable in the assessment year corresponding to the year of maturity.

**Answer Q. No. 2 (c):****Option-1**

Interest income from FDR	15,833
Corporate income tax payable @ 37.5%	(5,938)
Net Benefit	9,896



**Option-2**

Investment in Vehicle	3,000,000
Eligible amount for depreciation allowance	2,000,000
Eligible normal tax depreciation @ 20%	400,000
Eligible initial tax depreciation @ 25%	500,000
Total depreciation	900,000
Tax savings on depreciation @37.5%	337,500

**Option-3**

It appears that the machine will be available for use after 30 June 2014 and not recognizable in the financial statements before 30 June 2014. ABC Ltd will not be eligible for any depreciation allowance in this regard.

**Decision:**

Considering the impacts of the above options, it appears that investment in vehicle would be most beneficial.

**Regulatory provisions:**

1. As per paragraph 11 (6) (a) of the Third Schedule of the ITO 1984, income tax depreciation is allowed on maximum value of Tk. 2,000,000 for sedan car and passenger vehicles not plying for hire. It is assumed that the vehicle falls under this category.

**Question No. 3:**

Mr. A is 60 years old and employed by a private limited company. He has joined the company on 1 July, 2012. He has received the following income and benefits during the year ended 30 June, 2013:

- a) Basic Salary Tk. 100,000/- per month sent to his bank directly. He had outstanding salary for the month of June-2013 which was paid on 2 July 2013. He had also received arrear salary of Tk. 50,000/- during the year from previous employment.
- b) The present employer allowed house accommodation at a concessional rate. Mr. A. paid Tk. 60,000/- only as rent during the income year 2012-2013.
- c) Additional Conveyance allowance of Tk. 50,000/- was paid to Mr. A in addition to the conveyance allowed under Rule 33D.
- d) Entertainment allowance @ 5% of basic salary was paid to Mr. A.
- e) Free and concessional passage of Tk. 2,00,000/= for Travel in Bangladesh by Mr. A was allowed by the employer against actual claim of expenditure of Tk. 300,000/-.
- f) Employer spent Tk. 500/- p.m. for free Tea, Coffee, and Beverage for the office of Mr. A during working hours.
- g) Company spent Tk. 200,000/- for Mr. A. during the year against reimbursement of utility bills of his residence.
- h) Received share of Net Profit of Tk. 200,000/- from partnership. He is entitled to tax rebate as per tax law.
- i) Derived Net income from production of corn, maize and sugar beet for Tk. 5,000/-.
- j) Purchased wage earners bonds on 30 June, 2012 and received interest of Tk. 50,000/- in the following year on the said investment of Tk. 5,00,000/-.
- k) Taken advance of Tk. 200,000/- from a company against accumulated profit where he was an alternate director and a shareholder.
- l) Mr. A is also a Manufacturer and Exporter of garments products. He sold export quota at Tk. 25,000/- against export value of Tk. 500,000/-.
- m) Mr. A incurred a capital loss of Tk. 500,000/- on account of sale of shares, but made a capital gain of Tk. 600,000/- from the sale of government securities.



- (n) Rental income of Tk. 600,000/- received from a five storied building consists of 10 flats constructed during the period from 1 July, 2012 to 30 June, 2013 in an area of Muladi, Barisal.

During the year Mr. A. has claimed the following expenditure as his investments.

- 1) Purchased Sanchya Patra for Tk. 50,000/-
- 2) Contributed 10% of his basic salary towards Super Annuation Fund.
- 3) Deposited Tk. 75,000/- under Deposit Pension Scheme with a Financial Institution.
- 4) Contributed Tk. 20,000/- to Benevolent Fund.
- 5) Contributed 10% of basic salary to a recognized Provident Fund. A similar contribution was made by the employer wherefrom he received interest of Tk. 1,800/- from the said fund @ 18%.
- 6) Paid insurance premium of Tk. 20,000/- for his spouse and minor child. The policy value is Tk. 100,000/-.
- 7) Purchased one computer for Tk. 50,000/= and one laptop for Tk. 60,000/=

**You are required to calculate the total income and tax liability of Mr. A for the assessment year 2013-2014. Make necessary assumptions, if required.**

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**Answer Q. No. 3:**

**Mr. A**

Income Year 2012-13

Assessment Year 2013-14

Computation of total income and tax liability thereon

	Tk.	Tk.
1 Income from Salary		
Basic Salary @ TK. 1,00,000×11 months	1,100,000	
Add: Outstanding- June 2013	100,000	
		1,200,000
Add: Arrear Salary		50,000
House Accommodation at concessional Rate		
25% of Basic Salary	300,000	
Mr. 'A' Paid Cash	60,000	
		240,000
Additional Conveyance Allowance received under Rule 33E	50,000	
Add: 7.5% Basic Salary as per Rule 33D	90,000	
		140,000
Utility Bill paid by employer		200,000
Free & Concessional Passage under Rule 33G	200,000	
Actual Expenses	300,000	
		-
Free Tea, Coffee Beverage		
Employer Spent (500×12)	6,000	
Exempted	6,000	
Entertainment allowance 5% of Basic Salary		60,000



Contribution to P. Fund clause 6 of 6th Schedule Part-B

	120,000
--	---------

Interest from P. F.

Actual entitlement (1800x100/18=10,000 14.50%)

1,800	
1,450	350
	200,000
5,000	

2 Income from Partnership firm u/s 44 (1&2)

3 Net income from sale of corn

Less Exempted upto 50% as per Para 46 of the 6th Schedule Part-A

2,500	
	2,500

4 Interest received from wage earner's scheme during 30th June 2012-2013

5 10% contribution to benevolent fund under clause 17 of 6th Schedule Part-B

6 Advance taken from a company where he is a shareholder treated as loan taken from the company

	50,000
	-
	-

7 Sale/Transfer of Garments Quota Limited to 3% of Tk. 500,000

8 Capital gain-Govt. Securities  
Less: exempted u/s 32 (7)

	15,000
600,000	
600,000	
	-

Carry forward of capital loss (500,000-5000)= 495,000

9 Rental income from 10 Flat of 5 stories building in the village of Muladi, Barisal

Less: tax exempted as per clause 38 of the Sixth Schedule Part-A

Total Income

600,000	
600,000	
	2,277,850

Tax Computation on:

1st Tk.	220,000	@0%	
Next Tk.	300,000	@10%	30,000.0
Next Tk.	400,000	@15%	60,000
Next Tk.	300,000	@20%	60,000
Balance TK.	1,057,850	@25%	264,463
Gross tax liability			414,463

Investment Tax credit

30% of total income

(excluding employers' contribution of Tk. 120,000)

Actual Investment

Or

Lower one is selected

Investment tax credit @ 15%

Tk.
647,355
560,000
15,000,000
560,000

84,000



### Calculation of tax liability

Gross tax liability	414,463
Investment tax credit	(84,000)
	<hr/> 330,463
Tax rebate on partnership income (Tk. 330,463/ Tk. 2277850)× Tk. 200,000)	(29,015)
<b>Net Tax Payable</b>	<hr/> <b>301,447</b> <hr/>

#### Notes:

1. Assumed that arrear salary was not considered in previous year.
2. Investment facility on insurance premium is confined to 10% of policy value.
3. In absence of information surcharge is not considered.
4. It is assumed that Mr. A contributed to Approved Super Annuation Fund.
5. Actual Investment

Purchase of Sanchayapatra	50,000
Contribution to super Annuation fund	120,000
Deposit pension scheme up to Tk. 60,000	60,000
Contribution to Benevolent Fund	20,000
Contribution to recognized provident fund	240,000
Insurance premium paid	10,000
Purchase of Laptop	60,000
	<hr/> 560,000 <hr/>

### Question No. 4:

What sort of punishments and prosecutions are provided in the Income Tax Ordinance, 1984 for different offences and non-compliances of obligations by a person mentioned under Sections 164, 165 and 165A of Income Tax Ordinance 1984? 8

#### Answer Q. No. 4:

According to Section 164 of the ITO 1984 a person is guilty of an offence punishable with imprisonment for a term which may extend to one year, or with fine, or with both, if he, without reasonable cause,-

- a) fails to deduct or collect and pay any tax as required under the provision of Chapter VII except advance payment of tax or fails to deduct and pay tax as required under section 143 (2);
- b) fails to produce, or cause to be produced, on or before the date mentioned in any notice under Chapter VIII, or under section 83, such accounts, documents or statements as are referred to in such notice;
- c) fails to furnish, in due time, the return of income which he is required to furnish under section 75, or by notice given under section 77 or 93;
- d) refuses to furnish such information as may be necessary under section 113;
- e) refuses to permit inspection or to allow copies to be taken in accordance with the provisions of section 114;
- f) fails to afford necessary facilities or to furnish the required information to an income tax authority exercising powers under section 115;
- g) fails to comply with the requirement under sub-section (1) of section 116;
- h) fails to comply with the order made under sub-section (1) of section 116A;
- i) refuses to permit or in any manner obstructs the exercise of powers under section 117 by an income tax authority.

According to Section 165 of the ITO 1984 a person is guilty of an offence punishable with imprisonment for a term which may extend to three years but shall not be less than three months, or with fine, or with both, if he-



- makes a statement in any verification, etc. in any return or any other document furnished under any provisions of this Ordinance which is false;
- knowingly and willfully aids, abets, assists, incites or induces another person to make or deliver a false return, account, statement, certificate or declaration under this Ordinance, or himself knowingly and willfully makes or delivers such false return, account, statement, certificate or declaration on behalf of another person;
- signs and issues any certificate mentioned in the first or second proviso to section 82 which he either knows or believes to be false or does not believe to be true;
- refuses to furnish such information as may be necessary for the purpose of survey under section 115.

According to Section 165A of the ITO 1984 a person is guilty of an offence punishable with imprisonment for a term which may extend to three years or with fine upto taka fifty thousand or both, if he deliberately uses or used a fake Tax-payer's Identification Number (TIN) or a Tax-payer's Identification Number (TIN) of another person.

**Question No. 5:**

X Ltd. is engaged in civil construction business. The profit and loss account of the company for the year ended 30 June, 2013 is given below:

<b>Profit and Loss Account</b>	
<b>For the year ended 30 June 2013</b>	
	(Figures in Tk.)
<b>Revenues and gains</b>	
Receipt from Civil Construction	47,60,000
Rent of godown	80,000
Claim against loss of plant & machinery by fire from Insurance Company	
(1)	2,00,000
Interest on company deposit	25,000
Dividend from Companies(Net) (2)	50,000
	<b>51,15,000</b>
<b>Costs and expenses</b>	
Opening Stock of building materials	40,000
Less Closing Stock of building materials	(25,000)
Salary to Employees (3)	9,90,000
Incentive Bonus	3,00,000
Excess Perquisites	80,000
Purchase of building materials (4)	24,00,000
Donation (5)	90,000
Interest on Loan	3,20,000
Other administrative Expenses	2,47,000
Technical Service fees	13,000
Travelling Expenses (6)	1,40,000
Municipal Tax on godown (7)	12,000
Insurance Premium of Godown	8,000
Directors Remuneration (8)	2,53,000
Depreciation on Plant and Machinery (9)	65,000
Provision for Tax (10)	1,43,000
Total	50,76,000
Net Profit for the year	39,000
	<b>51,15,000</b>



- a) makes a statement in any verification, etc. in any return or any other document furnished under any provisions of this Ordinance which is false;
- b) knowingly and willfully aids, abets, assists, incites or induces another person to make or deliver a false return, account, statement, certificate or declaration under this Ordinance, or himself knowingly and willfully makes or delivers such false return, account, statement, certificate or declaration on behalf of another person;
- c) signs and issues any certificate mentioned in the first or second proviso to section 82 which he either knows or believes to be false or does not believe to be true;
- d) refuses to furnish such information as may be necessary for the purpose of survey under section 115.

According to Section 165A of the ITO 1984 a person is guilty of an offence punishable with imprisonment for a term which may extend to three years or with fine upto taka fifty thousand or both, if he deliberately uses or used a fake Tax-payer's Identification Number (TIN) or a Tax-payer's Identification Number (TIN) of another person.

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<b><u>Profit and Loss Account</u></b>	
<b><u>For the year ended 30 June 2013</u></b>	
	<b>(Figures in Tk.)</b>
<b>Revenues and gains</b>	
Receipt from Civil Construction	47,60,000
Rent of godown	80,000
Claim against loss of plant & machinery by fire from Insurance Company (1)	2,00,000
Interest on company deposit	25,000
Dividend from Companies(Net) (2)	50,000
	<b>51,15,000</b>
<b>Costs and expenses</b>	
Opening Stock of building materials	40,000
Less Closing Stock of building materials	(25,000)
Salary to Employees (3)	9,90,000
Incentive Bonus	3,00,000
Excess Perquisites	80,000
Purchase of building materials (4)	24,00,000
Donation (5)	90,000
Interest on Loan	3,20,000
Other administrative Expenses	2,47,000
Technical Service fees	13,000
Travelling Expenses (6)	1,40,000
Municipal Tax on godown (7)	12,000
Insurance Premium of Godown	8,000
Directors Remuneration (8)	2,53,000
Depreciation on Plant and Machinery (9)	65,000
Provision for Tax (10)	1,43,000
Total	50,76,000
Net Profit for the year	39,000
	<b>51,15,000</b>



**The following additional information are also available:-**

- 1) Claim was received against fire insurance taken for the plant and machinery at book value of Tk. 4,20,000/-. The written down value was Tk. 1,85,000/-. The plant and machinery destroyed in the fire was scrapped and disposed of at no consideration.
- 2) Dividend received Tk. 50,000/- net of Tax.
- 3) Salary includes Tk. 20,000/= gratuity paid to employees during the year on cessation of their employment. The company does not have any separate gratuity fund.
- 4) The entire building materials were purchased from a firm in which Managing Director of the company was a partner. The fair market value of the materials purchased was Tk. 20,00,000/-.
- 5) Donation includes Tk. 50,000/= paid to Bangladesh Cricket Control Board, Tk. 20,000/= to Zakat Fund and Tk. 20,000/= to ICAB
- 6) Travelling expenses include costs incurred for Tk. 1,40,000/- against overseas travelling by a director.
- 7) Municipal Tax on godown includes other tax of Tk. 3,000/- not paid.
- 8) Directors remuneration includes board meeting attendance fee of Tk. 50,000/= on which no VAT has been deducted and deposited to the government treasury.
- 9) The rate of depreciation on plant and machinery is 15% under the Third Schedule of Income Tax Ordinance, 1984. The tax written down value of the plant and machinery (still in use) brought forward on 1 July 2012 was Tk. 1,60,000/=. In addition a new plant and machinery was purchased for Tk. 23,333/= during the year.
- (10) Tax provision is to be made as per law, based on the Profit and Loss Account and the additional information provided here.
- (11) The company issued 1,00,000 shares of Tk. 10/ each, at a premium of Tk. 3 each during the year.

Compute the total income of X Ltd. for the assessment year 2013-2014 and Tax liability. You answer should include explanation of your treatment of various items.

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**Answer Q. No. 5**

**X Limited**  
Income Year: 2012-13  
Assessment Year: 2013-2014  
Computation of total taxable Income and tax thereon

	Taka	Taka
Income from business and professional u/s 28		
Net income as per books of accounts		39,000
Less: Income to be considered other heads		
- Claim on insurance premium	200,000	
- Interest income or deposit	25,000	
- Dividend income	50,000	
- Rent of godown	80,000	
		(355,000)
Add: Expenses to be considered as per ITO, 1984		
- Depreciation	65,000	
- Technical service fees	13,000	
- Incentive bonus	300,000	
- Foreign travelling	140,000	
		518,000



Add :	Expenses to be considered under different head		
	Municipal tax on godown	12,000	
	Insurance premium on godown	8,000	20,000
Add :	Expenses disallowed as per ITO-		
	Excess of fair value of building materials (2,400,000-2,000,000)	400,000	
	Donation	65,000	
	Director remuneration on which VAT has not been deducted	50,000	
	Tax provision as per accounts	143,000	
	Excess perquisites	80,000	738,000
	Income against insurance claim in excess of WDV as deemed income u/s 19		15,000
	Income before considering depreciation expense		975,000
	Depreciation as per 3rd Schedule (160,000 + 23,333 @15%)		(27,500)
	Income after considering depreciation expense		947,500
	Incentive bonus 10% of disclosed profit before provision for income tax	(3,900)	
		(140,000)	
	Foreign travel 1% of total turnover but the actual will be considered as it is lower.		
	Technical service fee @8% of assessed profit after depreciation or actual whichever is lower	(13,000)	(156,900)
	<b>Taxable income from business or profession</b>		790,600
	<u>Income from House property u/s 24-</u>		
	Amount value of godown rent higher of -		
	(a) Rent received	80,000	
	(b) Municipal value	-	80,000
	Less: Allowable deduction u/s25-		
	Municipal tax on godown excluding the Tk.3,000 which is other tax payable	(9,000)	
	Insurance Premium paid on godown	(8,000)	
	Repair and maintenance 30% of annual value	(24,000)	
			(41,000)
			39,000
	<b>Income from House property</b>		
	Income from other sources-		
	Dividend income exempted up to Tk. 10,000 as per 6th Schedule Part B. So Grossed up taxable income (50,000/0.80) - 10,000	52,500	
	Interest on deposit (gross) 25,000/0.9	27,778	
	<b>Total income from other sources</b>		80,278
	Total taxable income		909,878
	Computation of tax liability-		
	Tax liability on income from business or profession @37.5%		296,475
	Tax liability on income from house property @37.5%		14,625
	Tax liability on income from other sources except dividend@ 37.5%		10,417
	Tax liability on dividend 52,500 @20%		10,500
	Total tax liability		



Less: TDS on dividend  
TDS on interest on deposit  
Net tax liability

332,017  
(12,500)  
(2,778)  
316,739

Notes:

1. As per SRO # 337/Ain/99 dated 17 November 1999, donation to Bangladesh Cricket Board is exempted up to 50%.
2. As per third schedule of the ITO 1984, depreciation on plant and machinery is allowed @ 20%. However, 15% is considered in accordance with the question.
3. Payment of gratuity to employee is an allowable expenditure irrespective of having gratuity fund.

**Question No. 6:**

- a) Under what circumstances may a company cancel its VAT registration? What will they do to cancel the VAT registration? 3
  - b) If any VAT withholding entity makes any purchase from a person who is not registered under the Value Added Tax Act, what will be the consequences? 4
  - c) X Ltd. pays Tk. 60,000/= per month as office rent and Tk. 10,000/= per month as other charges (lift and security charges) to the landlord. The landlord wants that X Ltd. should pay 12% VAT along with the above rent and charges to him, which will then be deposited by the landlord to the government treasury? On the other hand X Ltd. wants to deduct 9% VAT from rent and 2.25% VAT from other charges, make the payment (net of VAT) to the landlord and deposit such deducted amounts to the government treasury. Both of them have now come for your advice. 5
- Advise on the basis of the current provisions of VAT Act and its Rules.**

**Answer Q. No. 6 (a):**

In pursuance with rule 15 of VAT Rules 1991, a Company, being registered person, can cancel registration under the following circumstances:-

- (a) being abstained from manufacture or production or sale of taxable goods or rendering of taxable service, or import or export of any goods;
- (b) taxable goods or services are declared as exempted goods or services;
- (c) failing to start the business of production or manufacturing or supply of taxable goods or rendering of services following being registered;
- (d) the turnover becomes less than Tk. 80 lac in the next one year from the date of registration of a voluntarily registered person as per section 17 of the Act;
- (e) if the annual turnover of the registered person is less than Tk. 80 lac;

The Company shall apply to the VAT Circle Office in VAT Form-10 for cancellation of the registration.

**Answer Q. No. 6 (b):**

The consequences of purchasing from a non-registered person are the following:

If anybody makes any purchase from any establishment not registered under VAT, input tax credit will not be allowed on the purchase. While making purchase through tender, a condition needs to be added in the tender schedule stating that intending suppliers will have to submit copy of their VAT registration certificate along with other documents. Without VAT registration certificate, purchase can not be made from the supplier. However, if inadvertently or so, purchase has been made from any establishment who is not registered under VAT, the obligation of VAT deduction at source does not end. VAT requires to be deducted at source as per the relevant provisions, otherwise, the cost of purchase will be treated as a disallowable expenditure under Income Tax Ordinance 1984.



**Answer Q. No. 6 (c):**

There is no provision of VAT deduction at source on house rent. VAT on house rent is paid by the tenant. X Ltd., as tenant, has made an agreement with the landlord regarding the terms and conditions of the rent. He pays the rent to the landlord; and he is also required to pay 9% VAT from his own fund on the agreement amount to the government treasury. The landlord has no responsibility of paying VAT. On payment of VAT to the government treasury, the tenant requires to submit the Treasury Challan to the local VAT Circle Office. While calculating VAT, charges for lift and security can not be excluded. In our VAT system of Bangladesh, the base for calculation of VAT is total receipt. Total receipt includes the price of the service, all charges, fees, commissions, etc. involved thereon. Total receipt remains defined under Section 2 of the VAT Act, 1991. In this case, total receipt Tk. 70,000/-. This amount is to be paid to the landlord. On top of this amount, 9% VAT stands at Tk. 6,300/-. So, as rent (including other charges) of the premises, Tk. 70,000/- needs to be paid to the landlord and Tk. 6,300/- needs to be deposited to the government treasury as VAT on house rent. Here, VAT is being paid by the service receiver. This is not VAT deduction at source.

**Question No. 7:**

The following information has been taken from the accounting records of XYZ Ltd for the year 2013:

Raw Materials inventory, January 1	Tk. 90,000
Raw Materials inventory, December 31	Tk. 60,000
Work in process inventory, January 1	Tk. 1,80,000
Work in process inventory, December 31	Tk. 1,00,000
Finished goods inventory, January 1	Tk. 2,60,000
Finished Goods inventory, December 31	Tk. 2,10,000
Purchase of Raw Materials	Tk. 7,50,000
Direct labour	Tk. 1,50,000
Manufacturing Overhead	Tk. 6,40,000
Selling expenses	Tk. 1,40,000
Administrative expenses	Tk. 2,70,000

The company sells its products by adding 15% profit on cost.

**Determine the amount of VAT if the rate is 15%.**

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**Answer Q. No. 7:**

**XYZ Ltd.**  
**Statement of VAT**

Particulars	Tk.	Tk.
Raw materials inventory, January 1	90,000	
Add: Purchase of raw materials	750,000	
Raw materials available for use	840,000	
Raw materials, December 31	(60,000)	
Raw materials used in production		780,000
Direct labor		150,000
Manufacturing overhead		640,000
Total manufacturing cost		1,570,000
Work in process, January 1		180,000
Work in process, December 31		(100,000)



Cost of goods manufactured	1,650,000
Finished goods inventory, January 1	260,000
Goods available for sale	1,910,000
Finished goods inventory December 31	(210,000)
Cost of goods sold	1,700,000
Administrative expense	270,000
Selling expense	140,000
Total cost	2,110,000
Profit @15% on cost	316,500
Sales	2,426,500

#### Value Added Tax for the year ended 31 December

VAT on output i.e. Sales (Tk. 2,426,500 × 15%)	363,975
Vat on input i.e. Purchase (Tk. 750000 × 15%)	(112,500)
	<u>251,475</u>

#### Assumptions:

1. Sales price has been determined adding 15% profit on total cost.
2. As per Section 9 (1) of the VAT Act 1991, input VAT credit is to be taken in the VAT period (currently one month) of receiving VAT Chellan i.e. Mushak-11 or in two subsequent VAT periods. As such, it can be reasonably assumed that input VAT credit on opening inventory had been taken before the year 2013. Hence, VAT paid on current year purchase is available for credit only.
3. In absence of information, eligible input VAT credit (if any) on manufacturing overhead, selling expenses and administrative expenses are not considered.

*The End*



**Taxation-II**  
**November-December-2014**

**Question No. 1:**

I. (a) Section 30 has been amended to restrict the claim of deduction against income from business or profession in the following cases:

- i) Perquisites
- ii) H. O. Expenses
- iii) Royalty, Technical know-how fees etc.
- iv) Incentive Bonus

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State, with examples, how the above will be determined in computation of Total Income when net profit is arrived at after charging such expenses.

b) State with reasons whether the following expenses are fully or partly admissible as deduction while computing income from business or profession:

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- i) Stock-in trade was lost in fire, amounting to Tk. 12,000 and was debited to P/L Account.
- ii) Interest paid to bank Tk. 15,000 in connection with overdraft obtained for paying dividend.
- iii) Overseas travelling expenses Tk. 50,000. The amount of disclosed turnover and disclosed net profit is Tk. 40,00,000 and Tk. 20,00,000 respectively.
- iv) Royalty paid Tk. 2,00,000. The amount of disclosed turnover and disclosed net profit is Tk. 40,00,000 and Tk. 20,00,000 respectively.
- v) Penalty paid for violating income tax law Tk. 25,000.

c) Explain the following:

- i) Penalty for concealment of income u/s 128 of ITO 1984.
- ii) Penalty for incorrect or false audit report by a chartered accountant u/s 129A of ITO 1984.

3

3

(d) Explain when a Chartered Accountant acts as a 'Principal' and when as an 'Agent' to his tax client. Which position is riskier?

4

**Answer to question No 1(a):**

Section 30 of the Income tax Ordinance, 1984 puts some restriction on extent of admissibility of certain expenditures in computing "income from business or profession".

- (i) Section 30(c) states the limit of amount of admissible perquisite to an employee, in an income year is Tk. 350,000. If an employee is given perquisite of Tk. 380,000 in an income year, the excess amount over Tk 350,000 of Tk 30,000(380,000 – 350,000) will be added to business income of the employer.



- (ii) Section 30(g) states the limit of amount of admissible "head office expense" of a company not incorporated in Bangladesh at 10% of net profit disclosed in the statement of account. For example a company (not incorporated in Bangladesh) states net profit in the Profit & Loss Account at Tk. 500,000 after charging "head office expenses" at Tk. 80,000. In determining income for tax purpose "head office expenses" will be admissible up to Tk 50,000 (10% of net profit). The remaining Amount of Tk. 30,000(80,000 – 50,000) will be added to net income of Tk. 500,000.
- (iii) Section 30(h) states the limit of amount of admissible "royalty, technical know how fee" in computing business income at 8% of net profit disclosed in the statement of account. For example a business states net profit in the Profit & Loss Account at Tk. 400,000 after charging "royalty, technical know how fee" at Tk. 60,000. In determining income for tax purpose "royalty, technical know how fee" will be admissible up to Tk 32,000 (8% of net profit of Tk 400,000) The remaining amount of Tk. 28,000 (60,000 – 32,000) will be added to net income of Tk. 400,000.
- (iv) Section 30(j) states the limit of amount of admissible "incentive bonus" in computing business income at 10% of net profit disclosed in the statement of account. For example a business states net profit in the Profit & Loss Account at Tk. 600,000 after charging "incentive bonus" paid to all employees at Tk. 80,000. In determining income for tax purpose "incentive bonus" will be admissible up to Tk 60,000 (10% of net profit of Tk 600,000) .The remaining amount of Tk. 20,000 (80,000 – 60,000) will be added to net income of Tk. 600,000.

**Answer to question No 1(b):**

- (i) Stock in trade lost in fire amounting to Tk.12, 000 charged in Profit & Loss Account will be an admissible expense.
- (ii) Dividend is paid from post net profit. As such bank interest o Tk. 15,000 paid in connection with overdraft for payment of dividend will not be an admissible business expense.
- (iii) Under section 30(k) admissible overseas travelling expense is 1% of turnover. 1% of Tk. 40, 00,000 comes to Tk.40, 000. As such the claim of Tk. 50, 000 is Tk 10,000(50,000 – 40,000) more than the admissible limit. The excess claim of Tk. 10,000 will be added to net profit of Tk. 20, 00,000.
- (iv) Under section 30(h) admissible royalty expense is 10% of net profit. 10% of Tk. 20, 00,000 comes to Tk.2, 00,000. As such the claim of Tk. 2, 00,000 is within that limit and such is admissible in full.
- (v) Penalty for violating income tax law of Tk. 25,000 will not be an admissible expense because any infringement of law will not be an admissible expense.



**Answer to question No 1(c):**

(i) Under the provision of section 128-

(1) the following tax authority during the course of any tax proceeding can impose penalty:

- (a) Deputy Commissioner of Taxes ;
- (b) Appellate Joint/Additional Commissioner of Taxes or Commissioner of Taxes(Appeals);
- (c) Taxes Appellate Tribunal.

(2) Such penalty may be imposed for:

- (a) concealment of particulars of income;
- (b) furnish inaccurate particulars of income;
- (c) understate value of an immovable property in connection with sale/transfer.

(3) The amount of penalty will be 15% of the tax avoided. If it is detected after 1 year, it will increase by 15% for each preceding assessment year.

(ii) Under the provision of section 129A-

(1) the following tax authority during the course of any tax proceeding can impose penalty:

- (a) Deputy Commissioner of Taxes ;
- (b) Appellate Joint/Additional Commissioner of Taxes or Commissioner of Taxes(Appeals);
- (c) Taxes Appellate Tribunal.

(2) Such penalty may be imposed for:

- (a) audit report is not certified by a chartered accountant that accounts are maintained according to BAS or BFRS standard;
- (b) audit report is false or incorrect.

(3) The amount of penalty will not be less than Tk. 50,000 and not more than Tk. 200,000.

**Answer to question No 1(d):**

**Principal**

An accountant acts as "principal" when he provides advice to the client as to the taxation consequences of different courses of action. The accountant may be liable to the taxpayer in the event the advice given turns out to be incorrect or inappropriate.

Where an accountant does not have the professional skill required to act as a "principal" in a particular case he may still accept the engagement. However, he must ensure that the correct opinion after consultation with experienced qualified accountant.

Acting as a "principal" is therefore considered to be a high risk activity.



## Agent

An accountant acts as "agent" when he merely prepares document on behalf of a client. The client retains responsibility for the accuracy of the document itself. The accountant is thus an agent when performing tax compliance work such as preparing and submitting a tax return on behalf of a client. The client would be required to sign the return prior to its submission.

The accountant takes no responsibility for any information which he passes on to the tax authorities when acting as an "agent". The accountant is not normally liable if any of the information proves to be incorrect.

Acting as an "agent" is therefore considered to be a low risk activity.

### Question No. 2:

2. (a) You are a Tax Advisor of ABC Ltd. Mr. Kabir, the Chief Financial Officer (CFO), of the company has sought your advice for an effective and efficient business tax planning and techniques to provide the assessee with maximum tax advantage. It has got 5(five) directors and 10(ten) salaried employees who are individual assessees.

**In response to the request of the CFO you are required to explain some effective business tax planning techniques conducive to ABC Ltd.**

i) As an individual tax payer for its directors & employees.

ii) As a business organization

5

- (b) Comment on the following two scenarios:

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Scenario-1:

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A company wants to raise capital of Tk.20,00,000 for a project where earning before tax shall be 30% of the capital employed. The company can raise debt fund @12%. Suggest which of the following 3 alternatives should it opt for.

i) Tk.20,00,000 to be raised by equity capital.

ii) Tk.16,00,000 by equity and Tk.4,00,000 by loan.

iii) Tk.4,00,000 by equity capital and Tk.16,00,000 by loan.

Assume the company shall distribute the entire amount of profit as dividend while income is subject to tax rate of 30%. Tax on dividend is 15% plus 3% additional tax on tax amount and 10% surcharge on tax.

Scenario-2:

What will be the option, if the earning before tax is 10% of capital employed.

- (c) XYZ Ltd., a company registered in Honk Kong, is engaged in procuring garments from different parts of the world and exporting to different retailers in Europe and USA. They want to set up an establishment in Bangladesh in order to ensure timely shipments and quality of garments exported by different factories of Bangladesh against letters of credit issued by the company's bank in Hong Kong.

The company undertakes that the establishment can be set up in any form as follows:

- i) Liaison Office; or



- ii) Branch Office; or
- iii) Subsidiary Company

They need your advice on the income tax implications in the above three cases, so that they can take a proper decision and plan accordingly. They also need your advice on the income tax implications for the expatriate employees as may be appointed to work for their establishments in Bangladesh. Advise.

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**Answer to question No 2(a):**

Date:

Mr. Kabir  
Chief Financial Officer  
ABC Ltd

Subject: Opinion regarding tax planning & technique.

Dear Sir,

We are submitting the following suggestion which will lessen your tax burden complying present tax law:

**(1) Regarding personal income tax of directors & employees –**

- (a) Directors should draw monthly/yearly director's remuneration from the company which will reduce the net profit of the company.
- (b) Director's remuneration should have break up like basic salary, house rent allowance, bonus, medical allowance, conveyance allowance so that their tax burden comes down due to the exemption admissible in rule 33A, 33I, 33C.
- (c) Directors may invest in life insurance premium, deposit pension scheme, sanchaypatra, shares of listed company. This will enable them to get investment tax rebate @15% on investment. However investment should be up to the limit of 30% of income or Tk. 1, 50, 00,000.
- (d) Employee's salary should not be gross. Instead it should have break up like basic salary, house rent allowance, bonus, medical allowance, conveyance allowance, rest & recreation allowance, so that their tax burden comes down due to the exemption admissible in rule 33A, 33I, 33C, 33G.
- (e) Employee's provident fund is to be introduced. Recognition of which may be obtained from concerned Commissioner of Taxes.
- (f) Employees may invest in provident fund, life insurance premium, deposit pension scheme, sanchaypatra and shares of listed company. This will enable them to get investment tax rebate @15% on investment. However investment should be up to the limit of 30% of income or Tk. 1, 50, 00,000.



## (2) Regarding corporate income tax of tour company –

- Directors should draw director's remuneration of the company which will reduce the net profit of the company.
- Company may introduce provident fund for employees. Which should obtain recognition from concerned Commissioner of Taxes. Contribution of company in such, being admissible expense and will reduce its tax burden.
- Company should not give perquisite in excess of Tk. 350,000 in a year to any employee.
- Company should explore export business. Which will reduce tax burden of export business by 50 % under paragraph 28 of part A of Sixth Schedule.
- Company should invest in industry which is illegible for tax holiday under section 46B.
- Company should invest in poultry, dairy etc. which is exempt from tax.
- Company should strive to enjoy tax concession under SRO No 185-ain/2014 dated 01/07/2014.
- Company should prepare to enlist itself with Security of exchange Commission so that it can enjoy favorable rate of tax.
- In case the company is engaged in a business where tax is deductible from its receipt and such tax deducted is final discharge of tax liability under section 82C, separate accounts is to be maintained for such business.

Tax Advisor

### Answer to question No 2(b):

#### Analysis of scenario - 1:

[Figures are in Taka]

	(a)	(b)	(c)
Equity share capita	20,00,000	16,00,000	4,00,000
Debt capital	—	4,00,000	16,00,000
	.....	.....	.....
Total investment	20,00,000	20,00,000	20,00,000
Earning before interest and tax (EBIT) 30%	6,00,000	6,00,000	6,00,000
Less: Interest on debt@12%	—	48,000	1,92,000
Earning before tax (EBT)	6,00,000	5,52,000	4,08,000
Less: Tax @ 30% + 3% Additional tax	1,85,400	1,70,468	1,26,072
	.....	.....	.....
Dividend available	4,14,600	3,81,532	2,81,928
Less: Tax @ 15% + 3% + 10% on dividend to be distributed	60,226	55,408	40,954
	.....	.....	.....
Amount available for distribution	3,54,374	3,26,124	2,40,974
	.....	.....	.....
Return on equity share capital	17.788%	20.382%	60.243%.



**Analysis of scenario - 2:**

[Figures are in Taka]

	(a)	(b)	(c)
Earning before interest and tax (EBIT) 10%	2,00,000	2,00,000	2,00,000
Less: Interest on debt@12%	—	48,000	1,92,000
Dividend available	2,00,000	1,52,000	8,000
Tax on income @ 30% + 3%	61,800	46,968	2,472
Gross dividend inclusive of tax 15% + 3%	1,38,200	1,05,032	5,528
Tax on tax + surcharge @ 10%			
Less: Tax on dividend	20,075	15,257	803
Net dividend distributable	1,18,125	89,775	4,725
Return on equity share capital	5.906%	5.611%	1.181%

**Comments on two scenarios:**

The above two scenarios make it clear that the existence of securities being fixed rate of return in capital structure. It has magnifying effect from earning after tax. It also clears from the second scenario that shareholders suffer to a great extent.

\* Tax rate on profit is 30% + 3% Additional tax (applicable on tax payable) i.e. 30.90%

\*\* Tax on dividend @ 15% + 3% Additional tax (applicable on tax payable)  
+ 10% surcharge. (applicable on tax payable) i.e. 16.995%.

**Answer to question No 2(c):**

The income tax implications in the case of three types of establishment of a foreign company in Bangladesh are as follows:

**(i) Liaison office:** Setting up of a liaison office requires permission from the Board of Investment (BOI). As per BOI regulation, a liaison office can perform, on behalf of its parent company (XYZ Ltd.), the activities of inspection, quality control and liaise for exportable or other goods for that company. All its expenses are to be met out of remittances received from XYZ Ltd. It cannot generate any income. It is also required to submit prescribed statement to Bangladesh Bank.

It has to obtain a TIN (Tax Identification Number) from the income tax authority in Bangladesh, and submit annual income tax return in every assessment year along with receipts and payments statement and balance sheet. Since a liaison office will have no income, assessment is to be made by the tax office at 'Nil' income and 'Nil' tax.

However, in case the liaison office makes any payment to its vendors or employees without deduction of income tax (TDS, i. e. Tax deduction at source) and deduction of VAT (VDS,



i.e., VAT deduction at source) and deposit of the same to Government Exchequer, as may be applicable under the tax laws, it may be subject to income tax @35% (current rate of income tax in the case of a company) on such payments. In addition, it may also be liable to pay such income tax and VAT amounts not deducted and paid.

- (ii) **Branch office:** A branch office is required to obtain TIN from the income tax authority. It can generate its own income. So, it has to submit annual income tax return along with its audited financial statements and necessary documents to tax office for every assessment year. It is allowed to claim maximum 10% of profit before tax as head office expenses. Its income accruing or arising from Bangladesh is subject to income tax. It is to be taxed@35% (current rate) on its taxable profit, i. e. total income as is called in income tax law. Any income repatriated out of Bangladesh will be deemed as dividend and will be subject to withholding tax @20% (applicable for dividend to parent company in Hong Kong).
- (iii) **Subsidiary Company:** Subsidiary company (if any) of XYZ Ltd. is to be incorporated with Registrar of Joint Stock of Companies in Bangladesh. It will be considered as a Bangladeshi company, and will be subject to income tax like any other Bangladeshi company. So it has to obtain TIN and submit annual income tax return along with its audited financial statements and necessary documents to tax office for every assessment year. It is to be taxed@35% (current rate) on its taxable profit, i. e. total income as is called in income tax law. Any income to be repatriated out of Bangladesh will be in the form of dividend and will be subject to withholding tax @20% (applicable for dividend to parent company in Hong Kong).

**Advice on income tax implications for the expatriate employees:** Any expatriate employee working in Bangladesh will require work permit from BOI/EPZ authority. They will be subject to same provisions of the income tax law and rules, irrespective of whether it is a liaison office or a branch office or a subsidiary company.

If he/she is a non-resident for income tax purposes in Bangladesh in any income year, he/she will be subject to income tax@30% (current rate) on his/ her total income (as per tax law) in the relevant income year. If he/she is a resident, the income tax rate will be on a slab basis from 10% to 30%, as is applicable for any individual assessee.

### Question No. 3:

3. (a) Mr. X has constructed a 3-storied building with a loan of Tk.60 lakhs from Sonali Bank Ltd. The construction was completed in November 2014. His loan account was debited by the bank with loan interest as follows:

July 2012 to June 2013	Tk.6 lakhs
July 2013 to June 2014	Tk.10 lakhs
July 2014 to November 2014	Tk.6 lakhs

**You are required to advise whether Mr. X will be entitled to any deductions for the above loan interest amounts to arrive at his total income for the purpose of income tax. While giving your advice, consider the rental income as in (b) below, if relevant.**



(b) Mr. X is now negotiating with Mr. Y and Mr. Z for renting out the 1st and 2nd floors with effect from 1 January 2015 for a period of 4 years. He is also negotiating with ABC Ltd. to rent out two rooms with a kitchen and a wash room for 3 years. The rent amounts have been agreed as follows:

- i) Ground floor (as above): Tk.20,000 p.m. with an advance of 6 months to be adjusted over a period of the last 12 months of the rental period in equal amounts.
- ii) 1st floor: Tk.30,000 p.m. with an advance of 3 months to be adjusted over the last 3 months of the rental period in equal amounts.
- iii) 2nd floor: Tk.25,000 p.m. with no advance, but with a security money of Tk.50,000 to be refunded at the time of vacating the premises on the expiry of the rental period.

Mr. X wants all the rental payments, advances and security money to be paid in cash. Mr. Y, Mr. Z and ABC Ltd. agree, provided it does not contradict with the provisions of the Income Tax Ordinance 1984 and the Income Tax Rules 1984 and does not deprive them of any income tax benefit which they would have otherwise got.

**You are required to give necessary advice with regard to above in the light of the Income Tax Ordinance 1984 and Income Tax Rules 1984.**

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**Answer to question No. 3(a):**

As per section 25(1)(gg) of the Income Tax Ordinance, 1984, if any house property has been constructed/reconstructed with a loan from any bank or any financial institution and there was no income earned during the period of such construction, the interest on such loan shall for the construction period be allowed as a charge in three equal proportionate instalments for subsequent, first three years for which income is assessable from that property. Mr. X has constructed the building with a loan from Sonali Bank and no income was earned up to the income year ended 30 June 2014. Mr. X is thus allowed to get the deduction of interest payable (up to 30 June 2014) on such loan in three equal proportionate instalments against first three subsequent years' income from the said house property. Interest accrued up to 30 June 2014 can be determined as below:

Period	Figure in Tk. (lakhs)
July 2012 to June 2013	6
July 2013 to June 2014	10
Total interest during this period	16

I would, therefore, advise Mr. X to claim the deduction of such interest amounting Tk.5.33 lakhs (Tk.16 lakhs/3) against annual value of the said house property for each of the income years 2014-15, 2015-16 and 2016-17.

In addition Mr. X will get full deduction of the interest (of TK.6 lakh being interest) for the income year 2014-15 under section 25(1)(g) against the income earned during that period as evident from question 3(b).



In case the net result of computation of income from house property is a loss in the income year 2014-15 (or any other year), Mr. X is entitled to set off such loss against his income, if any, assessable for that income year (i.e., relevant assessment year) under any other head under section 37.

**Answer to question No. 3(b):**

The National Board of Revenue (NBR) has introduced a new rule i.e. rule-8A in order to provide guidelines regarding the rent of any house property. As per rule 8A of the Income Tax Rules, 1984, any person having ownership or possession of any house property receives any sum or aggregate of sums exceeding Tk.25, 000 per month in respect of any rent of such house property or its unit, is required to maintain a bank account in any scheduled bank for the purpose of depositing rent from the house property or its unit. He is to deposit such rent or advance received from such house property or its unit in that bank account. Such person is also required to maintain a separate register and record the particulars of the tenant or tenants and the sum received.

As per section 123 (2) of the Income Tax Ordinance (ITO) 1984, any person having income from house property, failing, without reasonable cause, to maintain a bank account and separate register, as mentioned above, shall be penalized by an amount of fifty per cent of taxes payable on house property or five thousand taka whichever is higher.

Income received by Mr. X in the income year 2014-2015 may be analysed as below:

**Analysis of rent receivable by Mr. X:**

Floor	Tenant's name	Monthly rent	Advance/Security money	Remarks
Ground floor	ABC Ltd.	20,000	120,000	Advance is adjustable with monthly office rent
1st floor	Mr. Y	30,000	90,000	Advance is adjustable with monthly rent
2nd floor	Mr. Z	25,000	50,000	Security money is refundable at the time of vacation premises
<b>Total</b>		<b>75,000</b>	<b>260,000</b>	

Since the total rent of Mr. X is Tk.75, 000 per month which exceeds the threshold limit i.e. Tk.25, 000. Mr. X is required to maintain a bank account in any scheduled bank to deposit the monthly rent and advance or security money received therefrom, even if receives part/full of the amount in cash. He is also required to maintain a separate register containing the particulars of the rent & tenants. Otherwise penalty under section 123(2) of the Income Tax Ordinance, 1984 may be imposed on him.

Amount received by Mr. X from Mr. Z as security money not adjustable with rent payable will be deemed as house property income of Mr. X for the income year 2014-15 under section 19(22).



However under 1<sup>st</sup> proviso of section 19(22) Mr. X may opt to split the income in income year 2014-15, 2015-16, 2016-17, 2017-18 & 2018-19 in equal instalments. Under 2<sup>nd</sup> proviso of the section Mr. X may claim the entire amount (Tk. 50,000) as expenses to house property income the year of refund.

In the instant case, the tenure of tenancy with Mr. Z will expire on December, 2019 (4 years from January, 2015) which falls in the income year 2019-20. As such Mr. X may split the security money of Tk. 50,000 in 5 equal instalments of Tk. 10,000 each. In addition to normal rent, he is required to show Tk. 10,000 for each of income year 2014-15, 2015-16, 2016-17, 2017-18, 2018-19 and 2019-20 as house property income. He will also claim refund of security money of Tk. 50,000 as expenses from house property income in the income year 2019-20 (as it was refunded to Mr. Z in that year).

#### **Advice to Mr. Y, Z and ABC Ltd. with regard to mode of payment**

As per section 30 (n) of the Income Tax Ordinance, 1984, any payment in respect of rent of any property otherwise by crossed cheque or bank transfer shall be disallowed against income from business or profession on which the tenant is required to pay income tax at applicable rate. As such, I would advise Mr. Y and Z (if they carry on business or profession in the said premises) and ABC Ltd. to pay the amount of office rent through crossed cheque or bank transfer to get the amount so paid as allowable deduction at the time of assessment.

As per section 53A of the ITO, 1984, tax @5% shall have to be deducted at source by the responsible Withholding authority from any payment as office rent or advance rent/security deposit (which is not adjustable against rent payable). ABC Ltd will be required to deduct tax @ Tk. 1,000 per month (5% of Tk. 20,000) and pay the remaining Tk 19,000 to Mr. X.

As per section 57 of the Income Tax Ordinance (ITO) 1984, the tenant would be subject to penalty for non deduction of tax as detailed below:

- As per section 57 (1) (a) of the ITO 1984, the tenant would be deemed to be an assessee in default in respect of the income tax deducted or collected at source;
- As per section 57 (1) (b) of the ITO 1984, the tenant would be liable to pay an amount at the rate of two per cent per month on income tax not withheld for the period commencing on the date following the expiry of the time within which it is to be paid under section 59 and ending on the date of the actual payment of the tax;
- As per section 57 (2) of the ITO 1984, DCT may take necessary action for realization of tax not withheld along with additional amount payable under section 57 (1) (b).

In addition, as per section 30 (aa) of the ITO, 1984, the amount from which income tax has not been withheld may be disallowed by the Deputy Commissioner of Taxes (DCT) and the tenant will thus be exposed.

Therefore, I would advise ABC Ltd. (not applicable for Mr. Y and Mr. Z as they are not deducting authority) to deduct tax at source @5% from the rent paid and to deposit tax so deducted at source within the stipulated time in order to avoid the consequences laid down in section 57 of the ITO, 1984 and to get the amount so paid as allowable business expenditures.



**Question No. 4:**

Calculate Mr. Adib Ahsan's taxable Income and tax liability for the assessment year 2014-2015 considering the following, as may be relevant:

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**Income from Salary:**

Basic salary Tk. 22,000 per month, Dearness allowance 10% of basic salary, Medical allowance Tk. 2,000p.m, Two festival bonuses each equal to one month's basic salary and Annual performance bonus equal to four months' basic salary. Mr. Ahsan received free accommodation from his office which has annual rental value of Tk. 120,000 and a full time car. Leave encashment during the year was Tk. 6,600. He and his employer both contribute 10% of basic salary to a recognized provident fund.

**Income from House Property:**

Mr. Adib is the owner of a three storied house at Dhanmondi, Dhaka. He let out each floor at a monthly rent of Tk. 10,000. Annual municipal value of the house is Tk. 300,000. Beside all the repair and maintenance expenses, he paid municipal tax of Tk. 8,000, Insurance premium Tk. 20,000 and interest on mortgage loan Tk. 3,000 for the house. The ground floor remained vacant for 2 months during the year.

**Income from Business or Profession:**

Profit from sole proprietorship business Tk. 155,000. In the previous year he incurred a loss of Tk. 40,000 in the same business and carried forward Tk. 5,000 to set off this year. During the year he also earned profit from partnership firm Tk. 120,000.

**Income from other sources:**

Dividend received Tk. 54,000 from a private limited company, Income from talk show Tk. 10,000 and Interest received from bank savings account Tk. 2,700.

**Income from FDRs in the name of his daughter and wife:**

He has a daughter studying in a private university in Dhaka. She is dependent on her father. She has an FDR amounting to Tk.10 lakhs, which is made up of her savings of pocket money, gifts she has received in her birth days from the relatives and friends over the years and the accumulated interest on FDR. The FDR account was opened in 2008, and the balance of Tk.10 lakhs as on 30/6/2014 includes interest of Tk.3 lakhs (net of income tax) earned during the period from 2008 to 30 June 2013 and Tk.90,000 (net of 15% income tax) interest earned during the income year 2013-2014.

Mrs. Ahsan has an FDR of Tk.20 lakhs. This is made up of her savings from the funds allocated for household expenditure and interest earned upto 30 June 2014. Tk.1,80,000 was credited as interest income (net of 15% income tax) during the income year 2013-2014.

Neither Mrs. Habib nor their daughter has any other income and has any Tax Identification Number (TIN).

**Payments made during the year:**

He paid Tk. 40,000 and Tk. 35,000 as insurance premium for his own and his spouse. He purchased share from secondary market amounting to Tk. 7,200. He also purchased medical books for Tk. 15,000 during the year. He donated Tk. 30,000 to Prime Minister's Relief Fund, Tk. 20,000 to his relative and Tk. 35,000 to Aga Khan Development Foundation.



**Answer to question No. 4:**

Computation of income of Mr. Adib Ahsan for the assessment year 2014-15

**A. Income from salary:**

Component of salary	Gross amount	Exempted amount	Net amount chargeable to tax	Reason for the treatment
Basic salary	2,64,000	Nil	2,64,000	(20,000X12)
Dearness allowance	26,400	Nil	26,000	(10% of Tk. 2,64,000)
Medical allowance	24,000	24,000	Nil	Under rule 33I medical allowance up to 10% of basic salary subject to a maximum of Tk. 60,000 is exempted.
Festival bonus	22,000	nil	22,000	
Annual performance bonus	88,000	nil	88,000	
Deemed income for residential accommodation			66,000	Under rule 33B 25%(66,000) of basic salary or rental value(1,20,000) whichever is lower will be deemed income
Deemed income for fulltime car			13,200	5% of basic salary under rule 33D
Leave encashment				
Employers contribution to provident fund	26,400	nil	26,400	10% of basic salary
<b>Salary income:</b>			<b>5,05,600</b>	

**B. Income from house property:**



Annual value -

(a) Rent(10,000X3X12) = Tk.360,000

(b) Municipal Value = Tk.300,000

Under section 2(3) (a)(i) ALV will be (a) being higher at Tk.3, 60,000

Less expenditure:

(a) Repair & maintenance, considering residential use

@25% of ALV u/s 25(1)(h)(i) = Tk. 90,000

(b)Municipal tax = Tk.8, 000

(c) Insurance premium = Tk. 20,000

(d) Interest on loan u/s 25(1)(g) = Tk. 3,000

(e) Vacancy allowance u/s 25(1)(j) = Tk.20,000

Total expenditure: Tk 1, 41,000

Net income from house property: Tk. 2, 19,000.

C. Income from business:

Profit during the year: Tk.1, 55,000

Carry forwarded loss set off under section 38: Tk.5, 000

Resultant business income: Tk. 1, 50,000

Share of profit from firm: Tk.1, 20,000

Income from business: Tk. 2, 70,000

D. Income from other sources:

(a) Dividend: Tk. 54,000

Less exempted under paragraph 11A  
of Part A of Sixth Schedule: Tk. 20,000

Tk. 34,000

(b) Honorarium from talk show: Tk.10,000

(c) Interest from savings account: Tk. 2,700

Total income from other sources: Tk.46, 700.



**Income of spouse & children:** Section 43(4) of Income Tax Ordinance Prescribes certain conditions when income of spouse or children to be included in the hand of father/husband. This includes when either or both are member of firm or assets transferred to them none of this happened in this case. As such their income can not be clubbed with income of Mr. Adib Ahsan. Both of them are required to obtain TIN, file their tax return and declare the interest income in their tax return.

Total income of Mr. Ahsan = Tk.5,05,600 + Tk.2,19,000 + Tk.2,70,000 + Tk.46,700  
= Tk. 10,41,300

Investment for tax credit u/s 44(2) (b):

- (a) Insurance premium (40,000 + 35,000)  
(under paragraph 7 of Part B of Sixth Schedule) Tk.75, 000
- (b) Investment in secondary share  
(under paragraph 27 of Part B of Sixth Schedule): Tk.7, 200
- (c) Donation to Aga Khan Development Fund(Para21): Tk. 35,000
- (d) Employer's contribution to Recognised Provident Fund(Para 5): Tk.26,400
- (e) Employee's contribution to Recognised Provident Fund(Para 5): Tk. 26,400

Tk. 1, 70,000

The limit of investment for tax credit under section 44(3) is 30%

Of total income of Tk10,41,300 = Tk 3, 12,390.

The entire investment is within permissible limit of tax credit.

Note: The following will not be entitled for tax credit under section 44(2) and Part B of Sixth Schedule:

- (1) Purchase of Medical book (The assessee is not a Physician) = Tk.15,000
- (2) Donation to Prime Minister's Relief Fund = Tk.30,000
- (3) Donation to relative = Tk.20,000

Computation of tax:

Total income: Tk.10, 41,300

Tax on first Tk. 220,000 @0% = Nil

Balance: Tk.8, 21,300

Tax on next Tk. 300,000 @ 10% = Tk. 30,000



Balance: Tk. 5, 21,300

Tax on next Tk. 400,000 @15% = Tk. 60,000

Tax on balance Tk 121,300 @ 20% = Tk.24, 260:

Gross tax: Tk.1, 14,260

Less: Proportionate tax on share of profit of firm,  
deemed as paid

$[(1, 14,260 \div 10, 41,300) \times 120, 000]$  = Tk.13, 167

Less: Investment tax credit @15% on Tk.1, 70,000 = Tk. 25,500

Net tax payable: Tk.75, 593.

**Question No. 5:**

TWS Ltd. has been in the business of manufacturing office furniture since 2002. For the year ended December 31, 2013, its profit and loss account is as follows:

	Notes	Tk. '000	Tk. '000
Sales	4,800		
Less: Cost of sales	1	<u>2,600</u>	
Gross profit			2,200
Less: Operating expenditure:			
Payroll costs	2	1,500	
Directors' remuneration	3	300	
Freight and insurance	4	150	
Finance charges	5	100	
Donations	6	50	
Utilities	7	75	
Professional fees and subscriptions	8	85	
Training and research	9	60	
Entertainment	10	120	
Foreign exchange loss	11	40	
Provision for doubtful debts (trade)	12	<u>30</u>	
			<u>2,510</u>
			(310)



Add: Other income	13	400
Profit before taxation		<u>90</u>

**Notes:**

1. Cost of Sales		Tk. '000
Included under cost of sales are		
Depreciation of fixed assets		300
Provision for stock obsolescence		74
Damaged stocks written off		26
2. Payroll Costs		
Included under payroll costs are:		
Provision for retirement benefits		80
Medical expenses of staff and family		46
Contribution to an overseas provident fund (unapproved) for an expatriate employee		16
3. Directors' Remuneration		
The directors' remuneration comprises:		
Directors' salaries and fees		255
Leave passages		20
Entertainment allowances (utilized to entertain customers and dealers)		25
		<u>300</u>
4. Freight and Insurance		
Included under the above is an amount of Tk.3,000 paid to Safe Insurance Ltd., a company incorporated in Bangladesh, for insuring imported goods.		<u></u>
5. Finance Charges		
Included under the above is an interest subsidy of Tk.16,000 paid by the company in relation to loans taken by the employees from a bank.		
6. Donations		
The above comprise:		
Cash donations to approved institutions		30
Donations of 5 television sets to approved institutions		15
Advertisement in souvenirs		5
		<u>50</u>
7. Utilities		
Included in the above are deposits of Tk.3,000 for water and electricity in connection with the expatriate employee's house.		
8. Professional Fees and Subscriptions		
The above comprise:		
Audit and tax fees		35



Registration of trade marks	20
Legal fees in obtaining a term loan	17
Legal fees on recovery of trade debts	13
	<u>85</u>
9. Training and Research	
Included under the above expenses are:	
Routine product testing and quality control expenses	16
Payments to an approved research and development company for the use of its services.	33
10. Entertainment	
The above comprises:	
Dinners and lunches provided to suppliers	54
Meals and refreshments provided to employees during promotional campaigns	6
Salesman entertainment allowances (utilized to entertain customers and dealers)	60
	<u>120</u>
11. Foreign Exchange Loss	
The above comprises:	
Foreign exchange loss on settlement of trade debts	27
Foreign exchange loss on purchase of machinery	13
	<u>40</u>
12. Provision for Doubtful Debts (trade)	
The above provision comprises:	
Specific provision for doubtful debts	8
General provision for doubtful debts	15
Bad debts written off	7
	<u>30</u>
13. Other Income	
This comprises income derived from Bangladesh as follows:	
Tax exempt dividend	154
Interest income	86
Dividend income (gross)	160
	<u>400</u>
14. Additional Information	
i) The balances of the following provision accounts are as shown below:	

	December 31	
	2013	2012
	Tk. '000	Tk. '000
Provision for stock obsolescence	180	120
Provision for retirement benefits	302	254
Provision for doubtful debts (trade)		
Specific	32	25
General	72	60



- ii) TWS Ltd. has unabsorbed tax losses and unabsorbed depreciation allowances brought forward from the assessment year 2013-2014 of Tk.162,000 and Tk.103,000 respectively. The depreciation allowances claim for the assessment year 2014-2015 is Tk.124,000.

**Required:**

**Compute the total income and tax liability of TWS Ltd. for the assessment year 2014-2015.**

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**Answer to question No. 5:**

**TWS Ltd.**

Assessment year: 2014-15

Accounting year ending on 31 December 2013.

Computation of total income and tax thereon

Particulars	Note	Taka'000	Taka'000
Net Profit / (Loss) before tax as per audited financial statements			90
Income to be considered separately under appropriate head:			
Other income			400
Profit from business as per audited financial statements			(310)
Items of expenditure added for later consideration:			
Depreciation of fixed assets as per audited financial statements		300	
Provision for stock obsolescence	1	74	
Provision for retirement benefit	2	80	
Director's remuneration (entertainment allowance)	3	25	
Donation to approved institutions	4	45	667
Entertainment allowance	3	120	
Provision for doubtful debts (trade)	5	23	
Inadmissible expenses:			
Contribution to unapproved overseas provident fund	6	16	
Interest expense of staff loan borne by the company	7	16	
Deposit for water and electricity with expatriate employee house	8	3	
			35
			392
Admissible income/ (expenses):			
Written off provision for doubtful debts	5	(4)	
Written off provision for obsolescence of stock	1	(14)	
Retirement benefit paid	2	(32)	
			(50)
Income from business or profession before considering			342



depreciation,			
Entertainment allowance, unabsorbed tax loss and unabsorbed depreciation			(124)
Tax depreciation for the assessment year 2014 - 15			218
Tax depreciation for the assessment year 2014 - 15			
Profit after depreciation	3		
Entertainment allowance			(8.72)
On Tk. 218,000 @4%			209.28
Business income after entertainment allowance	9		(162)
Set off unabsorbed tax loss	10		(47.28)
Set off unabsorbed fiscal depreciation			-
Income from business or profession			
Income from other sources		154	
Dividend income		(154)	
Exempted in full (since as per question it is tax exempt)			
Interest income		86	
Dividend income (gross)		160	
Income from other sources			246
Total taxable income			246
Income tax payable on total income		Note	Taka' 000
Tax payable on divided income of Tk.86,000@20%			17.20
Tax payable on other income of Tk. 160,000@35%			56.00
Investment tax credit		4	73.20
			(6.75)
			66.45
			-
Advance income tax paid			66.45
Net tax payable			

#### Notes:

- Provision for stock obsolescence is disallowed in income tax assessment and direct write off of stock is allowed as deduction. Further write off of provision for stock obsolescence tantamount to actual write off and as such is considered as deductible expenses as determined below:

Particulars	Taka
Opening provision for stock obsolescence	120
Provision made during the year	74
Provision written off (balancing figure)	(14)
Closing provision	180



2. Provision for retirement benefit is disallowed in income tax assessment and actual payment is allowed as deduction as determined below:

Particulars	Taka
Opening provision for retirement benefit	254
Provision made during the year	80
Payment made(balancing figure)	(32)
Closing provision for retirement benefit	302

3. Entertainment allowance is separately considered as per rule 65 of the Income Tax Rules, 1984;
4. Donation to approved institutions (30+ 15) is considered for investment tax credit as per paragraph 22 of Part B of the Sixth Schedule of the Income Tax Ordinance, 1984. 15% on Tk. 45,000 =Tk.6,750;
5. Provision for doubtful debt is disallowed in income tax assessment and direct write off of receivable is allowed as deduction. Further written off provision for doubtful debt tantamount to actual write off and as such is considered as allowable deduction as determined below:

Particulars	Taka
Opening provision for doubtful debts (specific & general)	85
Provision made during the year	23
Provision written off (balancing figure)	(4)
Closing provision	104

6. Contribution to unapproved overseas provident fund is disallowed as per section 30(d) of the ITO, 1984;
7. Interest expense of staff loan borne by the company is considered as non business expense;
8. Deposit for water and electricity is considered as security deposit and recoverable at the end of tenancy;
9. Carry forwarded tax loss is adjusted before unabsorbed depreciation as per section 42(6) and 42 (7) of the ITO. 1984;
10. Unabsorbed fiscal depreciation up to Tk.47, 280 has been adjusted this year and remaining Tk.55.720 has been carried forwarded.

**Question No. 6:**

6. (a) ABC Ltd. is a manufacturer of cosmetic items. It sells through a number of distributors across Bangladesh. Currently it sells to distributors at Tk.80 per unit and fixes the MRP at Tk.100 per unit. The declared price of distributors (i.e. selling price of distributors to retailers) is Tk.90 per unit. ABC Ltd. withholds income tax @3% from distributors under section 53E(2) of the Income Tax Ordinance 1984. It also collects VAT @ 15%. Similarly the distributors also collect VAT @ 15% from retailers.

**Is there any scope for ABC Ltd. to minimize collection of income tax from distributors under the income tax law by changing the price structure, without changing the current MRP and reducing the government revenue collection from VAT? If yes, revise the**



price for distributors to a reasonable level, and make comparison of withholding tax and VAT collection and deposit at each stage under the existing and revised scenarios. ABC Ltd. has an incentive scheme under which its products may be given free of cost down the distribution channel to compensate (up to a reasonable level) financial loss, if any, due to change in price. No one should incur any loss due to price revision. 4

- (b) MN Ltd. imports 15 IT equipment as a commercial importer. You are aware that the import of IT equipment is exempted from VAT at import stage. The C&F agent of MN Ltd. says that import of IT equipment is subject to collection of ATV at the time of import. MN Ltd. is subject to 4% trade VAT. If the customs authority collects ATV @4% at the import stage, can MN Ltd. take credit of ATV as input VAT paid and adjust against the total VAT credit in the VAT Current Account and VAT Return? The CFO of MN Ltd. is confused, and sought your advice.

Give your opinion and advice. 4

#### Answer to question No. 6 (a):

If ABC Ltd. does not want to change MRP, considering the market impact, the selling price to distributor may be increased to an acceptable level. Thus the base for withholding income tax will be reduced which will ultimately result in less withholding tax. Of course, ABC Ltd. is required to declare such increase in price to VAT authority which will attract additional output VAT for ABC Ltd. with the same amount being additional input VAT for distributors. While invoicing, such enhanced VAT will be calculated and added with the sale price separately under the VAT head. The distributors will pay ABC Ltd. the total invoiced amount (i.e. sales price + VAT thereon). ABC Ltd. will thus get back the amount of output VAT deposited to the Government exchequer at the time of taking out the products from their distribution centres for delivery to the distributors.

It is assumed that all the distributors have VAT registration, and they invoice wholesalers/retailers by adding VAT with sales price. As such, they can claim their above input VAT against the output VAT collected from wholesalers/retailers. In this way neither ABC Ltd. nor distributors will have to bear any additional VAT due to increased selling price of ABC Ltd. to distributors. It is important to mention here that as per section 9(1) (aa) of the VAT Act, 1991, to ensure full input VAT credit, distributors may be required to provide revised price declaration if the input price is increased by at least 75%. Keeping the above in mind, ABC Ltd. can minimize collection of income tax from distributors by changing the price structure as follows (existing as well revised scenarios are given):

Particulars	Existing price (Tk.)	Revised price (Tk.)
Declared price of ABC (selling price of ABC to distributors)	80	85
Declared price of distributors (selling price of distributors to retailers)	90	90
Maximum retail price (MRP)	100	100



Withholding income tax @3% as per section 53 E (2) of ITO,84		0.6	0.45
VAT collection by ABC Ltd. from distributors*		12	12.75
VAT collection by distributors from wholesalers /retailers		13.5	13.5
VAT deposited by distributor	—	1.5	0.75
Total VAT deposited to the Government Exchequer		13.5	13.5

\*The incremental VAT paid by distributors for increased price is adjustable against the VAT collected by distributors from retailer/wholesalers as input VAT credit.

The increased amount of sales price to distributors as per our above suggestion may be compensated by ABC Ltd. by providing additional incentives to distributors or by reimbursing some expenses incurred by distributors wholly and exclusively for the purpose of business of ABC Ltd., or by reimbursing incentives provided by distributors to wholesalers, retailers, distributors work force (if any) etc. It is important to mention that the agreements between ABC Ltd. and distributors are properly worded to incorporate provisions for such reimbursement of business expenses paid by distributors on account of ABC Ltd. and such reimbursable costs should be clearly identifiable to be wholly and exclusively incurred for the purpose of business of ABC Ltd. Similarly, providing additional incentives to or through distributors (i.e. reimbursement of incentives paid by distributors to wholesalers, retailers, etc.) should be properly covered by the incentive schemes announced from time to time by ABC Ltd.

#### Answer to question No. 6 (b):

As per SRO no.242-AIN/2012/659-Mushak dated 28 June 2012, Advance Trade VAT (ATV) @4% is collectible on goods imported by a commercial importer if those goods are not exempted from VAT at supply stage. The commercial importer is entitled to get input VAT credit of the ATV paid at import stage after fulfilling the following conditions

- Supply of goods applying output VAT rate of 15 per cent and issuing invoice in form Mushak-11;
- Maintain VAT Current Account and adjust ATV as input VAT credit, submit VAT return and does not fall under the negative list activities as mentioned in section 9 of the VAT Act 1991.

MN Ltd. is thus entitled to get credit of ATV paid at import stage, should it fulfil the above conditions.

#### Question No. 7:

- (i) When is zero tax imposed under VAT Act? (ii) What are the procedures to be adopted for disposal of damaged or destroyed goods in accident under VAT Act?
  - Sumon purchases 100 wall clocks (WC) @Tk.70 per unit and he sold all these WC to Nikhil at Tk.9,300 where he earns profit of Tk.2,000. After adding value of Tk.30 per unit Nikhil

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sells these WC in the market. If VAT is same on all these clocks, calculate how much VAT Sumon has to pay and at what price Nikhil sells these WC in the market.

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**Answer to question No. 7 (a) (i):**

Some time export and deemed export/ zero rates is imposed under the Value Added Tax Act. In that case all duties and taxes paid on the imports or exported or deemed to be exported goods or services are reimbursed through duty draw back scheme.

**Answer to question No. 7 (a) (ii):**

Under rule 41 of the VAT Rules, 1991, if a registered person considers that the goods manufactured or produced or stored for supplied, has for the reasons of being damaged or destroyed in accident or for any other reason become non-suppliable, he shall submit to local VAT office an application form "Mushak-27". In the case of accident within 24 hours of the occurrence of the accident. For other reasons he has to inform the matter within 24 hours for disposal of such non-suppliable goods.

The Superintendent of VAT shall make a spot inspection within three days of the receipt of the application from registered persons. The value of goods damaged or destroyed in the accident, amount of output tax to be informed to the Divisional Office for giving his decision or disposal of damaged or destroyed goods through destruction or in any other manner.

If the goods is considered fit for supply partially or fully at reduced value, the Superintendent, shall determine, the value of goods in his opinion, submit the value to Divisional Officer for his approval.

**Answer to question No. 7 (b):**

Price paid by Sumon	=	Tk. (100 x 70)	=	Tk. 7,000
Profit earned	=	Tk. 2,000		
Total	=	Tk. 9,000		
Selling price (including VAT)	=	Tk. 9,300		
∴ VAT	=	Tk. 300		
∴ VAT (%) = $(300 \div 2000) \times 100$	=	15%		
Price paid by Nikhil	=	Tk. 9,300		
Value added	=	Tk. 3,000		
Total	=	Tk. 12,300		
∴ VAT	=	Tk. $3,000 \times (15 \div 100)$	=	Tk. 450
Selling price	=	Tk. (12,300 x 450)	=	Tk. 12,75



## Taxation-II

### May-June-2015

#### Question No. 01:

- a) Prepare a briefing note as regards tax evasion, tax avoidance and professional ethics to be followed by a Chartered Accountant rendering taxation services. 6
- b) You are a Chartered Accountant and working in Y Ltd. ("Company") as a tax manager. The Company is engaged in the business of export of the goods manufactured by itself. The bank, through which export proceeds of Y Ltd. is received, deducts tax at the specified rate from the total export proceeds in accordance with the provisions of section 53BB of the Income Tax Ordinance ("ITO"), 1984. The export proceeds net of income tax deducted at source under Sec. 53BB received by Y Ltd. during the income year 2013-14 came to Tk.100,000,000. Export income of Y Ltd. falls under the scope of section 82C of the ITO, 1984. Generally, the Company does not have additional income from export as referred to in section 82C (6) of the ITO, 1984.

In the income year 2013-14, a warehouse owned by the Company since 1/7/2013 was leased out to another company for a term of 3 years from 1/7/2013 at a monthly rent of Tk.100,000 with an advance rental payment of Tk.900,000 to be adjusted with monthly rental payments over 3 years. Y Ltd. received rent for the income year 2013-2014, but no tax was deducted at source from the rent paid by the lessee. Nor any VAT was paid on the rent. The repair cost of Tk.15,000, municipal tax of Tk.10,000 and insurance premium of Tk.1,000 were paid for the warehouse during the income year 2013-14.

The net profit before tax for the year as per the draft financial statements for the income year came to Tk.3,304,000. The net profit as per income tax comes to the same amount, assuming no penalty/liability (if any) for non-deduction of tax at source by the tenant and for non-payment of VAT. There is a tax refundable of Tk.150,000 for the last assessment year 2013-14. The income (including advance) from warehouse and its related expenses were deposited/paid out in cash into/from an undisclosed bank account of Y Ltd. and have not been included in the draft financial statements. The purchase money of Tk.50,000,000 (total accumulated undeclared income of Y Ltd. over the last 2 assessment years) for the warehouse was also paid from the same bank account.

The management of Y Ltd. is thinking of assessment of income of the Company for the income year 2013-2014 under section 82C of the ITO, 1984, upon considering the tax collected at source by the bank from the export proceeds as final discharge of tax liability. In a meeting with the management team of Y Ltd. on tax issues, you have been asked to consider whether it is possible to ignore income from house property so that no demand for additional income tax arises. To discuss the issue further, a meeting would be held next week.

#### Requirements:

- i) Enumerate the steps that you should take to deal with the unethical request from the management, if any. 4
- ii) Calculate the total income tax liability and further income tax amount payable after adjustment of any amount(s) as per income tax law. Assume that the undeclared/undisclosed income as above will now be declared /disclosed. 6
- iii) What will be the financial consequences for such non-deduction and non-payment as per tax laws? 4



**Answer to the question No. 01:**

**(a) Briefing Note for the Management Team**

**Subject: Tax Evasion, Tax Avoidance and Professional Ethics to be followed by a Chartered Accountant rendering Taxation Services.**

**Tax Evasion:**

Tax evasion is unlawful dodging in tax payments by tax payers. It is a process whereby a person illegitimately pays less tax than the law mandates. Tax evasion often entails taxpayers deliberately misrepresenting the true state of their affairs to the tax authorities to reduce their tax liability and includes dishonest tax reporting, such as declaring less income, profits or gains than the amounts actually earned, overstating deductions or suppressing turnover.

**Tax Avoidance:**

On the other hand, tax avoidance is the process whereby a person plans his or her finances so as to apply all exemptions and deductions provided by tax laws to reduce taxable income. Through tax avoidance, a person takes advantage of all legal opportunities to minimize his or her tax. Tax avoidance must be distinguished from Tax Evasion, which is the employment of unlawful methods to circumvent the payment of taxes. Tax evasion is a crime; tax avoidance is the legal way to reduce tax burden.

**Professional Ethics to be followed by a Chartered Accountant rendering Taxation Service:**

A professional accountant rendering taxation service is entitled to put forward the best position in favor of his employer provided the service is rendered with professional competence, does not in any way impair integrity and objectivity, and is in the opinion of the professional accountant consistent with the law. Doubt may be resolved in favor of the employer if there is reasonable support for the position. A professional accountant should not hold out to an employer the assurance that the tax return prepared and the tax advice offered are beyond challenge. Instead, the professional accountant should ensure that the employer are aware of the limitations attaching to tax advice and services so that they do not misinterpret an expression of opinion as an assertion of fact. A professional accountant should not be associated with any return or communication in which there is reason to believe that it:

- (i) Contains a false or misleading statement;
  - (ii) Contains statements or information furnished recklessly or without any real knowledge of whether they are true or false; or
  - (iii) Omits or obscures information required to be submitted and such omission or obscurity would mislead the revenue authorities.
- (b) In light of the aforementioned academic discussion, I will take following steps if there is any unethical request from my employer:
- (i) I will put my tax advice on record, either in the form of a letter or in a memorandum, while providing the requested opinions on ignoring/concealing income from house property.
  - (ii) I will let my employer know the consequences of error/omission/concealment of income as provided in the income tax laws for the time being in force and will recommend that appropriate disclosure be made to the revenue authorities.
  - (iii) If my employer does not accept my suggestion, I will inform them that it is not possible to act for them in connection with the evasion of tax or pertinent return of income.
  - (iv) I will follow the established policies of Y Ltd. to seek a resolution of such conflict.



- (v) If those policies do not resolve the ethical conflict, I will brought the problem to the notice of the next higher reviewing level such as the Executive Committee, Board of Directors or Shareholders. I will also seek counseling and advice on a confidential basis with an independent advisor to obtain an understanding of possible courses of action.
- (vi) If the ethical conflict still exists, I will consider whether continued association with Y Ltd. in any capacity is consistent with professional responsibilities and as a last resort I may have no other recourse on the tax evasion issue than to resign and to submit an information memorandum to an appropriate representative of Y Ltd.

**Question No. 02 (a):**

Mr. XY was employed in a real estate company in Singapore up to 25 June 2014. In the income year 2014-2015, he is expected to stay in Bangladesh for a period of, or for periods amounting in all to, minimum three hundred days. After returning to Bangladesh on 30 June 2014, Mr. XY communicated with ABC & Co. (CA Firm). You are a tax partner of the Firm and have been requested by Mr. XY to provide him with a report on implications of tax on the estimated income and investment options. He furnished you with the following information:

Estimated income for the assessment year 2015-2016 would be as follows:

Particulars of Income	Tk.
Income from Bangladesh	5,000,000
Income from Sweden	1,000,000
Income from Russia	1,500,000
Income from Singapore	2,500,000
Total	10,000,000

- i) Out of the countries mentioned above, Bangladesh signed Double Taxation Avoidance Agreement ("DTAA") with Sweden and Singapore. Mr. XY would pay 25% tax in Sweden as per DTAA, whereas income tax rate for a foreigner in Sweden is 30%. He would pay 15% tax for income generated in Singapore pursuant to the provisions of DTAA. General tax rate for a foreigner in Singapore is 35%. For the income generated in Russia, he would pay tax @ 30%.

The estimated income would be generated as interest on investments he made upon compliance with the provisions of the Foreign Exchange Regulation Act, 1947. However, Mr. XY is considering whether he would bring his overseas investments into Bangladesh and purchase publicly traded shares or would keep the amount invested abroad. A capital market analyst of Bangladesh sent him a report analyzing that he would earn Tk. 2,000,000 as dividend income and Tk. 2,500,000 as gain from sale of shares in the income year 2014-2015, if the overseas investments is brought into Bangladesh and reinvested in the shares listed on the stock exchanges in Bangladesh.

It was agreed that tax rate for the assessment year 2014-2015 will be applied for the purpose of determining tax implications and necessary computations. Assume that income from Bangladesh amounting to Tk. 5, 000, 000, as shown in the above table, will remain same irrespective of his decision as to bringing his overseas investments into Bangladesh. You don't need to consider foreign exchange gain or loss.



## Requirements

Send a report to Mr. XY addressing the following:

- i) Computation of relief from income tax by way of credit in respect of foreign tax and net tax payable in Bangladesh. 8
- ii) Advice Mr. XY whether he should bring the foreign investments into Bangladesh for making investments in the shares listed on the stock exchanges in Bangladesh. 5

### Answer to the question No. 02 (a):

Mr. XY

Address.....

15 June 2015

Dear Mr. XY:

- (a) Computation of relief from income tax by way of credit in respect of foreign tax and net tax payable in Bangladesh.
- (b) Opinion on whether foreign investments should be brought into Bangladesh and reinvested in the shares listed on the stock exchanges in Bangladesh.

Thank you for your recent letter on the aforementioned subject. The issues raised in your communication have been based on a few assumptions and report submitted by professional analyst of capital market in Bangladesh. I have considered the tax issues only. Our computation and opinion may be changed if there is any change in the assumptions and projections. As requested, I provide you with the following feedback:

- (a) Computation of relief from income tax by way of credit in respect of foreign tax and net tax payable in Bangladesh

Mr. XY

Computation of net tax payable in Bangladesh for the assessment year 2015-2016 applying tax rates applicable to assessment year 2014-2015

Slabs	Taxable Income (Tk.)	Rate	Tax (Tk.)
First	220,000	0%	-
Next	300,000	10%	30,000
Next	400,000	15%	60,000
Next	500,000	20%	100,000
Next	3,000,000	25%	750,000
Balance	5,580,000	30%	1,674,000
<b>Total</b>	<b>10,000,000</b>		<b>2,614,000</b>
Less: Double taxation relief (Notes)			1,017,100
<b>Net Tax Payable</b>			<b>1,596,900</b>

Notes:

1. Average tax rate in Bangladesh : 
$$\frac{(2,614,000/10,000,000) \times 100}{100} = 26.14\%$$



**Computation of Tax Relief:**

Tk.

Tk.

**2. Foreign tax credit in respect of income from Sweden:**

There is DTAA with Sweden. Foreign tax credit would be allowed applying the average rate of 26.14% or tax to be paid in Sweden at the rate of 25% ----- whichever is lower as per section 144(4) of I.T Ordinance, 1984.

(1,000,000 X 25%)

250,000

**3. Foreign tax credit in respect of income from Singapore:**

There is DTAA with Singapore. Foreign tax credit would be allowed applying the average rate of 26.14% or tax to be paid in Singapore at the rate of 15% ----- whichever is lower as per section 144(4) of I.T Ordinance, 1984.

(2, 500,000 X 15%)

375,000

**4. Foreign tax credit in respect of income from Russia:**

There is no DTAA with Russia. But foreign tax credit would also be allowed applying the average rate of 26.14% or tax to be paid in Russia at the rate of 30% ----- whichever is lower as per section 145 of I.T Ordinance, 1984 though NBR not yet prescribed any rule in this behalf.

(1,500,000 X 26.14%)

392,100

**Total Foreign tax credit****1,017,100**

- (b) Opinion on whether foreign investments should be brought into Bangladesh and re-invested in the shares listed on the stock exchanges in Bangladesh

**Income from Overseas Investments: Option -1**

Particulars	Tk.	Bangladesh Tax (@ 30%)	Foreign Tax (Tk.)	Double Taxation Relief (Tk.)	Income net of tax (Tk.)
	(i)	(ii)=(i) x 0.30	(iii)	(iv)	(v)=(i)-(ii)-(iii)+(iv)
Income from Sweden	1,000,000	300,000	250,000	250,000	700,000
Income from Singapore	2,500,000	750,000	375,000	375,000	1,750,000
Income from Russia	1,500,000	450,000	450,000	392,100	992,100
<b>Total</b>	<b>5,000,000</b>	<b>1,500,000</b>	<b>1,075,000</b>	<b>1,017,100</b>	<b>3,442,100</b>



## Income from Investments in Bangladesh: Option -2

Particulars	Tk.	Applicable Tax Rate	Income Tax Implication (Tk.)	Income net of tax (Tk.)
Income from Dividend	2,000,000	30%	600,000	1,400,000
Capital gain from Sale of Shares	2,500,000	0%	-	2,500,000
<b>Total</b>	<b>4,500,000</b>		<b>600,000</b>	<b>3,900,000</b>

### Note:

On the basis of workings presented hereinabove, it is obvious that estimated income, net of tax, from investments in the capital market of Bangladesh would be higher than that of abroad and we take the view that you may bring the overseas investments into Bangladesh and make reinvestment in Bangladesh's capital market. However, we also suggest you to consider the risk factors, economic indicators, investment climate, company fundamentals, market trend, etc. before taking such decision.

I hope that the above computation/opinion will be helpful to take decision. If there is any further query you may please contact us without any hesitation.

Yours sincerely, -----

### Question No. 02 (b):

Mr. ABC ("Assessee") submitted income tax return for the assessment year 2014-2015. In the return of income for the said assessment year, he disclosed purchase of a flat, registered deed value of which was Tk. 8,000,000. In the course of making assessment, the Deputy Commissioner of Taxes ("DCT") identified that the Assessee took out a home loan of Tk. 5,000,000 mortgaging the flat and the market value of the flat was shown by the lender at Tk. 10,000,000 in the sanction letter of loan. At the same time, an insurance company insured the flat after assessing value thereof at Tk. 8,000,000. The Assessee purchased the flat from the first owner, not from the real estate company. The DCT asked the Assessee to clarify the difference between registered deed value of the flat and the market value thereof as assessed by the lender. If the Assessee offers no explanation or the explanation offered by him is not satisfactory, the excess amount shall be deemed to be the income of the Assessee classifiable under the head "Income from other sources". At the hearing, the DCT also referred to the provisions of income tax laws whereby he might deem the difference between the fair market value of an asset and price paid by the assessee for the said asset to be income of the assessee classifiable under the aforementioned head.

You are a practicing Chartered Accountant and Mr. ABC has requested you to provide him with professional support.

### Requirement

Draft a letter for Mr. ABC explaining the difference between registered deed value of flat and market value thereof assessed by the lender.

5



**Answer to the question. No. 02 (b):**

The Deputy Commissioner of Taxes

Circle-....., Taxes Zone-.....

Dhaka

15 June 2015

Dear Sir:

**Written explanation in respect of difference between registered deed value of flat and market value thereof assessed by the lender**

**Name of Assessee: Mr.ABC**

**TIN: .....**

**Assessment Year: 2014-2015**

Please refer to your letter no.....dated.....on the subject mentioned above. I am pleased to submit following written observation/explanation in respect of difference between registered deed value of flat and market value thereof assessed by the lender:

A lender is mere a business entity and run by its own business policy. The lender appraises the value of a property, against which funding is being made, following its own strategy and generally accepted norms of funding. For example, a piece of land was purchased at the cost of Tk. 100 few years back and a lender may estimate the present value of the property at Tk. 1,000. In doing such valuation, the lender may take various factors into account.

Lending money and earning interest thereon is the prime business of a lender and for doing business it may think, plan and act as per its own business strategy. For the purpose of approving loan to the assessee and doing business with him, the lender estimated the market value of flat at Tk. 10,000,000 and granted loan of Tk. 5,000,000, which is 50% of Tk. 10,000,000. On the contrary, the insurance company insured the flat after carrying out a willful valuation of the same at Tk. 8,000,000. It is remarkable that the two companies of different industry, i.e. lending and insurance, have worked out the different market value of the same property, i.e. Tk. 10,000,000 and Tk. 8,000,000 respectively.

There should not be such a difference of ocean in the market value of the same property. It evidences that computation of market value of a property is significantly influenced by the business policy and own methodologies of the lender and insurance company. Lender and insurance company may compute the tax status and tax liability of a borrower, but it is the tax authority whose computation is legally acceptable and obligatory for that borrower. Hence, there is no legal ground to accept the market value of the flat determined by the lender and even the insurer for the purpose of imposition of tax. There is no such law especially at section19 of Income Tax Ordinance,1984 to impose tax on this difference

On the basis of aforementioned facts, it is clear that the valuation of a property by a lender may not reasonably match with the registered deed value of the same. Such valuation is done by the lender for its own business purpose and is not an authentic one in the eye of the Registration Act, 1908, the Stamp Act, 1899, and the Income Tax Ordinance, 1984. Estimation of market value of a property by a business entity can't supersede the valuation done by the Registrar or Sub-registrar appointed by the government.

In light of the above, I would like to request you to accept my explanations.

Yours faithfully,

-----



**Question No. 3(a):**

ABC Ltd., a publicly traded company incorporated and operating in Bangladesh, is 70% Bangladeshi owned and is a manufacturer of refrigerators, freezers and air-conditioners under the brand name ABC which is registered as a trade mark in Bangladesh. The company is the owner of the brand. The profit and loss account for the year ended 31 December 2014 is as follows:

	Notes	Tk. 000	Tk. 000
Turnover			161,596
Add: Interest income	(1)		<u>308</u>
			161,904
Less: Cost of sales	(2)		<u>115,416</u>
			46,488
Less:			
Salaries, wages, and bonuses	(3)	7,040	
Employees Provident fund	(4)	1,536	
Donation	(5)	20	
Advertising	(6)	7,398	
Rental of premises	(7)	1,858	
Travelling	(8)	1,500	
Foreign exchange loss	(9)	280	
Maintenance of plant and machinery	(10)	232	
Bad and doubtful debts	(11)	2,038	
Freight and insurance		3,044	
Depreciation		1,880	
Motor vehicles expenses		<u>582</u>	<u>27,408</u>
Net profit before tax			<u>19,080</u>

**Notes:**

- (1) Interest income is from a fixed deposit placed with a bank in Bangladesh. The interest was received during the year and has been grossed-up in the accounts. Interest income includes Tk.28,000 (gross) earned but received by ABC Ltd. after 31 December, 2014.
- (2) Cost of sales is arrived at after crediting Tk.80,000 in respect of the cost of goods manufactured by the company, which were withdrawn from stock for use of fixed assets by the company. The normal selling price was Tk.120,000.
- (3) Salaries, wages, and bonuses include basic salary of Tk.64,000 paid to CFO in cash for the month of January 2014, pension of Tk.20,000 and contribution to the Gratuity Fund (unapproved).
- (4) The Employees Provident Fund contributions by the employer and employee each are @10% for staff and 12% for executives.
- (5) Donation is in respect of contributions made to a fund-raising campaign organized by a distributor of the ABC brand of goods.

**(6) Advertising:**

Included is a sum of Tk.54,000 incurred on advertising the ABC brand of goods on the internet via a host website located in Dhaka. The goods are of export quality standard. No income tax and VAT were deducted from the payment, as the company was not sure about the requirements of such deduction.



### (7) Rental of premises:

Included in the rental is a sum Tk.50,000 paid in respect of the early termination of the lease of a building which the company vacated in September 2014. The lease was to have run for another 5 years. The building was no longer suitable as a showroom for the company's goods due to the construction of a toll plaza.

### (8) Travelling includes:

- (i) Vacation airfare and hotel accommodation costing Tk.36,000 for important overseas customers.
- (ii) Reimbursement to the directors of the company of salaries of Tk.200,000 and Employees Provident Fund contributions of Tk.25,000 in respect of drivers employed by the directors.
- (9) The foreign exchange loss is in respect of the purchase of component parts for manufacture. The realized loss amounts to Tk.14,000 only.
- (10) Maintenance of plant and machinery includes the installation cost of a machine amounting to Tk.34,000.
- (11) Bad and doubtful debts comprise: Tk.

Bad debts recovered (238,000) Specific provision brought forward (1,902,000) General provision brought forward (2,410,000) Bad debts written off 240,000 Specific provision carried forward 2,750,000 General provision carried forward 3,598,000 2,038,000 The specific provision carried forward includes a sum of Tk.26,000, being the balance of a personal loan granted to a director who has now resigned from the Board.

- (12) Depreciation allowances have been computed at Tk.1,644,000 for the assessment year 2015-16, but without taking into account the following acquisitions:

#### Machine:

On 14 August 2014 the company purchased a machine at a cost of Tk.366,000. The sum of Tk.34,000 mentioned in note (10) was incurred on preparing the site for installation of this machine. The machine commenced to be used for the business two weeks after acquisition.

**Motor car:** A new car costing Tk.4,400,000 was purchased on 9 July 2014 for the general manager.

- 13) Dividend has been paid at the rate of 30% (20% cash, 10% bonus) for the year ended 31 December 2013.
- 14) The company has a capital loss Tk.1,000,000 carried forward from the assessment years as follows:  
2007-08 Tk. 200,000 2008-09 Tk. 300,000 2009-10 Tk. 400,000 2010-11 Tk.100,000  
Tk.1,000,000 The loss carried forward from the assessment years includes:
  - i) 2007-08: Tk.100,000 depreciation allowance.
  - ii) 2010-11: Tk.50,000 loss under the head "Capital gain".

All other losses carried forward relate to business income.

#### Requirements:

- a) Compute total income for the Income year ended 31 December 2014 corresponding to assessment year 2015-2016. 14
- b) Compute total tax liability for the year. 4

While making the above computations any non-compliance of the relevant provisions of the tax laws (Income Tax as well as VAT) by the Company are to be considered strictly in accordance with the legal provisions for such non compliance. Use the current income tax provisions, ignoring the proposals given in the Finance Bill, 2015. If considered necessary, you may make assumptions in the light of the relevant tax provision.



Answer to the question no. 3 (a):  
ABC Ltd.

Assessment Year: 2015-16  
Accounting Year ended on 31 December 2014  
Computation of total income and tax thereon

Particulars	Note	Taka '000	Taka '000
Net Profit before tax as per audited statement of accounts			19,080
<b>Less: Income to be considered separately under appropriate head:</b>			
Interest income			(308)
Net Profit from business as per audited statement of accounts			18,772
<b>Add: Items of expenditure for separate consideration:</b>			
Depreciation as per audited financial statements		1,880.00	
Foreign exchange loss		280.00	
<b>Inadmissible expenses:</b>			
Salary paid in cash		64	
Donation to unapproved sector		20	
Advertising expense paid without deduction of income tax and VAT		54	
Contributions to unrecognized provident fund	4	1,536	
Reimbursement of director's driver salary and provident fund contribution		225	
Installation cost of plant and machinery (being capital nature)		34	
Provision for bad and doubtful debts	5	2,276	
			4,209
			25,141
Bad debts recovered			238
<b>Admissible income/(expenses):</b>			25,379
Written off provision for doubtful debts		(240)	
Realized foreign exchange loss		(14)	(254)
			25,125
Income from business or profession before considering depreciation, unabsorbed business loss and unabsorbed tax depreciation loss			(2,224)
Tax depreciation for the Assessment Year 2015-16	6		22,901
Profit after depreciation			(100)
Set off unabsorbed tax depreciation loss	7		(450)
Set off unabsorbed business loss	8		22,351
<b>Income from business or profession</b>			
<b>Income from other sources</b>			
Interest income			308
<b>Total income</b>			22,659
Income tax payable on total income @27.5%			6,231.23
Income tax deducted at source	10		(28.00)
<b>Net tax payable</b>			6,203.23



**Notes:**

- 1 Taxable income and income tax payable thereon has been computed considering the provisions of the Finance Act 2014;
- 2 It is assumed that no revenue is recognized for cost of goods transferred as fixed assets since there was no gross inflow of economic benefit.
- 3 Pension is exempt from income tax in the hand of the recipient by paragraph 8 of the Sixth Schedule Part A of the ITO, 1984 and hence the provision of Section 30 (d) is not applicable here. Since Gratuity Fund is un-approved, contribution to such fund will be inadmissible. However, since the question does not mention about amount of contribution to such Fund, no amount has been disallowed here.

4 **Provident Fund**

It is assumed that the provident fund is not recognized by the Commissioner of Taxes

5 **Provision for bad and doubtful debts:**

Taka '000

Total provision brought forward (Tk. 1,902+ Tk. 2,410)	4,312
Provision written off during the year	(240)
Provision made during the year (balancing figure)	2,276
Total provision carried forward (Tk. 2,750+ Tk. 3,598)	<u>6,348</u>

6 **Tax depreciation**

Taka '000

Depreciation allowance computed	1,644
Normal depreciation on machinery (Tk. 366 + Tk. 34)×20%	80
Initial depreciation on machinery (Tk. 366 + Tk.34)×25%	100
*Normal depreciation on new car (Tk. 2,000)×20%	400
	<u>2,224</u>

\* As per Para 11 (6) (a) of the Third schedule of the ITO 1984, the actual cost of the motor car, not plying for hire, shall not exceed Tk.20,00,000/. As the purchase price of the motor car exceeds the said limit, depreciation has been calculated on deemed purchase price (i.e. twenty lakh taka).

- 7 As per Section 42 (6) of the ITO, 1984 unabsorbed depreciation loss can be carried forward for set off with business income for unlimited period of time;

8 **Unabsorbed business loss:**

Total Loss	1,000
Depreciation allowance carried forward AY 2007-08	(100)
Loss carried forward under the head "Capital Gain"	(50)
Business loss not eligible for set off under Section 38 (b) of the ITO, 1984:	
For the AY 2007-08 (200-100)	(100)
For the AY 2008-09	(300)
	<u>(400)</u>
	450

- 9 The company did not pay cash dividend of 30% or more and hence not eligible for any income tax rebate;

10 **Income tax deducted at source:**

Taka '000

Gross interest income	308
Accrued interest	(28)
Realized interest income	280
Income tax deducted at source @ 10%	<u>28</u>



**Question No. 3(b):**

The cost of a machine owned and used by ABC Ltd. for business purposes was Tk.40,000,000 and its written down value was Tk.5,368,709 as on 30 June 2014. The machinery has been discarded on 10 June 2015. The scrap value is likely to be Tk.10,000 only. ABC Ltd. management intends to dispose of the machine in August 2015.

**Requirement:**

Will ABC Ltd. get more tax relief all together for the machine in the assessment years 2015-16 and 2016-17 if the machine is disposed of in June 2015 instead of in August 2015? Advise. 4

**Answer to question 3 (b):****Assessment Year 2015-16**

As per sub-Section 1 (xi) of Section 29 of the ITO, 1984, an obsolescence allowance is allowed in the manner specified in paragraph 10 the Third Schedule of the ITO, 1984, where any building, machinery or plant which has been **discarded**, demolished or destroyed in **any income year** or any such asset has been sold, transferred by way of exchange after having been used for the purpose of business or profession. As per paragraph 10c of the ITO, 1984, where the sales proceeds are less than the written down value of the asset, the deficit shall be deemed to be an expenditure and deductible from the profits and gains of business or profession of that year. The term '**sales proceed**' has been defined in sub-paragraph 3(f) of paragraph 11 of the Third Schedule of the ITO, 1984. As per sub-paragraph 3(f) of paragraph 11 of the Third Schedule of the ITO, 1984, where the asset ceases to be used by the assessee for the purpose of business or profession, **sales proceed means the fair market value at the time of such cessation**. Provisions of the ITO 1984, do not delimit itself to the physical disposal of the asset rather it also includes cessation of the assets from their effective use.

In addition, in respect of the building, machinery or plant which is wholly or partly discarded or demolished or destroyed, the allowance can be granted only for that income year in which the building, machinery or plant has actually been discarded or demolished or destroyed. Since this Section applies only if the property is used in the relevant income year, where a property is discarded in one year and sold in a subsequent year, the assessee must claim the allowance in the year in which the property is discarded and cannot wait until the property is sold and claim the allowance in subsequent year in which the sale takes place.

However, as per paragraph 10 (1) of the Third Schedule of the ITO, 1984, no allowance for depreciation is allowable in the year of disposal.

Assessment Year: 2015-16	Taka	Taka
Depreciation allowance (not eligible)		-
Obsolescence/balancing allowance (eligible)		
Written down value as at 1 July 2014	5,368,709	
Scrap Value (fair value)	(10,000)	
Loss on disposal of assets		5,358,709
Income tax relief (5,358,709*35%)		1,875,548

**Assessment Year: 2016-17**

No depreciation allowance is allowable on machinery once it's sold or discarded. Similarly once loss on disposal is allowed in the year of disposal, the assessee will not get any tax benefit in the year after disposal. As such ABC Ltd. will not get any benefit in the Assessment Year 2016-17.

The loss on disposal of the machinery shall be considered on the point when the machinery has been discarded. As such, if the physical disposal is done in June 2015 instead of August 2015, it will not bring about any difference.



**Question No. 4 (a):**

ABC Bangladesh Ltd., a company incorporated in Bangladesh, manufactures high class motor vehicle engines for sale both in Bangladesh and abroad. Foreign sales are made through ABC Hong Kong Pvt. Ltd., a company incorporated in Hong Kong and wholly owned by ABC Bangladesh Ltd. In Hong Kong, corporate tax rate is 25% and in Bangladesh, it is 35%. ABC Bangladesh Ltd. sells engines to ABC Hong Kong Pte Ltd. at USD 30,000 (FOB) per unit. In Bangladesh, the same engine is sold at USD 40,000 per unit. ABC Hong Kong Pte Ltd. sells these units at USD 60,000 per unit in their local market. During the income year ended 31 March 2015 ABC Bangladesh Ltd. sold 10 such engines at the above FOB price and 5 such engines at USD 31,000 C&F price per unit. The freight was USD 1,000 per unit. 14 of the above 15 export sales took place during the last 9 months of the year. The cost of sales and total overhead expenses (related to the above units sold) of ABC Bangladesh Ltd. were USD 20,000 per unit in equivalent Taka. The overhead expenses (related to the above units imported and sold) including the freight for the above FOB imports of ABC Hong Kong Pte Ltd. were USD 10,000 per unit. Neither of the above two companies had any other income and expense during the income year.

**Requirements:**

- (i) Will any report from accountant be required to be furnished to the income tax authority? If so, who can issue the report? Draft a report to be issued in this regard. 6
- (ii) On the basis of the information given above, determine income from the above international transactions having regard to arm's length price. 4
- (iii) Which method have you followed in computing the arm's length price as in (ii) above? 2
- (iv) How much additional income tax will the government earn by following the above method? 2

You may use exchange rate of USD 1= Tk.78.

**Answer to question 4 (a):**

(i) Yes, a report from a qualified accountant is required to be furnished to the income tax authority as per section 107F of The Income Tax Ordinance, 1984 as ABC Bangladesh Ltd. has entered into international transactions amounting to  $[30,000 \times 10 + 31,000 \times 5 = 4,55,000 \times 78 = \text{Tk.}3,54,90,000]$  which is more than Tk.3 crore. Only a qualified accountant, either a Chartered Accountant or a Cost and Management Accountant can issue such report. A report is drafted as per Rule-75 as under:

**Report on international transaction as per section 107F**

- ☐ The accounts and records of ABC Bangladesh Ltd. TIN----- relating to the international transactions entered into by ABC Bangladesh Ltd. during the income year ending on 31 March 2015 has been examined by me.
- ☐ It appears from our examination of the accounts and records that proper information and documents, as are required by the Income Tax Ordinance, 1984, have been kept.
- ☐ The particulars required to be furnished under section 107F are given in the Annexure of this report.
- ☐ In my opinion and to the best of my information and according to the explanations given to me, the particulars given in the Annexure are true and correct.



Signature

Name & address:

Membership No:

Place & date

(ii) Taking into consideration the fact that the same engine is sold in Bangladesh at fair market price (here arm's length price) USD 40,000 per unit, income comes at Tk.40,000-20,000=20,000x15=3,00,000x78=Tk.2,34,00,000/

(iii) Comparable uncontrolled price method is followed here to determine arm's length price as arranged sales price with associated enterprise can easily be compared with the information of local sales price.

(iv) Additional income tax to be paid  $10,000 \times 15 = 1,50,000$   $50,000 \times 78 = \text{Tk.} 1,17,00,000$  @35% = Tk.40,95,000

**Question No. 4(b):**

ABC Hong Kong Pte Ltd. has a global agreement with M&S LLC of USA which incorporates a clause stating that in the case of any purchase by M&S from any company within the group to which ABC Hong Kong Pte Ltd. belongs, M&S will get a rebate of 5% on the purchase price from that company. Now ABC Bangladesh Ltd. intends to enter into an agreement with M&S to sell its engine products to M&S.

**Requirement:**

Will any transaction between ABC Bangladesh Ltd. and M&S fall under transfer pricing? Discuss. 3

**Answer to question 4 (b):**

Yes, the transaction between ABC Bangladesh Ltd. and M & S LLC of USA will fall under transfer pricing because M & S LLC of USA is also to be treated as deemed associated enterprise as per section 107A(2)(L).

**Question No. 5 (a):**

You are a VAT consultant licensed by National Board of Revenue and have been newly appointed as a VAT outsourcing service provider of a manufacturing company, AB Ltd. ("Company"). Immediately after your appointment, submission of VAT return for the month of January 2015 has become due. The Chief Financial Officer ("CFO") of the Company provides you with the following particulars for the period from 01 January 2015 to 31 January 2015:

Raw materials worth Tk. 500,000/= were purchased and Tk. 1,500,000/= worth of finished goods were sold during the month of January 2015. Applicable VAT rate is 15% in the case of procurement of raw materials and sale of finished goods. 15% VAT was paid on procurement of spare parts worth Tk. 100,000/= in January 2015. In addition, the amounts of VAT paid on various expenditures incurred for the month of January 2015 are as follows:

Electricity	Tk. 10,000/=
Audit Fee	Tk. 30,000/=
Advertising Firm	Tk. 15,000/=
Repair of Building	Tk. 20,000/=
Import of Machineries	Tk. 25,000/=

You had a discussion with the CFO of AB Ltd. and came to know that the invoices raised by the providers/suppliers of aforesaid services/goods are compliant with the provisions of VAT laws. However,



the advertising firm did not raise an invoice in Mushak-11 or invoice approved by the competent VAT authority. All of the applicable VAT Registers, including Current Account, are maintained by AB Ltd. Opening balance of the Current Account as of 01 January 2015 was Tk. 100,000/= and during the month of January 2015, Tk. 200,000 was deposited in the government treasury.

#### Requirement

Provide the CFO of AB Ltd. with computation of the following:

- |  |   |
|--|---|
| (a) Output VAT   | 1 |
| (b) Input VAT credit   | 6 |
| (c) Closing balance of the Current Account as of 31 January 2015 | 3 |

#### Answer to the question No. 5 (a):

##### Computation of VAT for the month of January 2015

Particulars	Tk.	Tk.
Opening Balance of Current Account as of 01 January 2015		100,000
Add: Treasury Deposited in the government treasury		200,000
		<u>300,000</u>
Less: Output VAT (Tk. 1,500,000 X 15%)		225,000
		<u>75,000</u>
Add: Input VAT Credit:		
Raw Materials (Tk. 500,000 X 15%)	75,000	
Spare Parts (Tk. 100,000 X 15%)	15,000	
Electricity Bill (Tk. 10,000 X 80%)	8,000	
Audit Fee (Tk. 30,000 X 80%)	24,000	
Import of Machineries	25,000	147,000
Closing Balance of Current Account as of 31 January 2015		<u>222,000</u>

**Note:** (i) Input VAT Credit shall not be allowed for the VAT paid on expenditure for repair of Building as per Section 9 (1) of the VAT Act, 1991.

(ii) Input VAT Credit shall not be allowed for the VAT paid on Advertisement expenditure due to want of a valid VAT invoice (Mushak-11).

#### Question No. 5 (b):

In early June 2015 XY Ltd. offered to provide some engineering consultancy services to AB Ltd. at Tk.850,000 which is the lowest bid price. Another bidder quoted Tk.1,000,000. XY Ltd. has not attained VAT registration. AB Ltd. intends to hire the services of XY Ltd., being cheaper. PQ Ltd., a security service provider appointed by AB Ltd. w.e.f. 1 June 2015, is registered with VAT authority. PQ Ltd. is unwilling to issue a valid VAT invoice (Mushak-11) and has asked the Company to deduct VAT at source from the amount payable thereto. In this situation, AB Ltd. is not sure whether deduction of VAT at source would be sufficient compliance with the provisions of VAT laws.

#### Requirement:

Advise AB Ltd. with consequences, if any, for entering into the above transactions.

8

#### Answer to the question (5) (b):

Advise to AB Ltd.



#### Case#1

As per Section 19(Ka) of the Value Added Tax (VAT) Act, 1991, no person would be able to take part in any tender if he is not registered with the VAT Authority or any work order cannot be issued in favor of him. Moreover, as per Section 9(1) (T) of the Value Added Tax (VAT) Act, 1991, input VAT credit shall not be allowed on any purchase if anybody makes the purchase from any person not registered with the VAT authority.

In the given situation, XY Ltd., the lowest bidder to provide the engineering consultancy services to AB Ltd., is not registered with the VAT authority. As per Section 37 (1) (6) of the VAT Act, 1991, the person awarding the tender or work order may be penalized with a minimum of Tk.10,000 and a maximum of Tk.30,000. Therefore, it is advisable to hire the consultancy services from an entity registered with the VAT authority instead of XY Ltd. to avoid the negative consequences as mentioned above. AB Ltd. should include a provision of mandatory submission of a copy of the VAT Registration Certificate by the intended local suppliers in its vendor enlistment policy and ensure availability of valid Mushak-11 before receiving commercial invoice from suppliers.

However, AB limited will not be eligible for input VAT credit on the engineering consultancy services irrespective of availability of Mshak-11 from another bidder since as per Section 9 (1) (D) of the VAT Act 1991, input VAT credit facility is not allowed on any service related with infrastructure. In the absence of details it is assumed that the engineering service will be taken for infrastructural development.

However, in the event AB Limited enters into the transaction with XY limited, the invoice of XY Limited should be considered as inclusive of VAT as per Rule 23 (4) of the VAT Rules 1991. AB Limited has the responsibility of determining the applicable withholding VAT by back calculation (i.e. multiplying invoice amount by 15/115). In this case, the VAT amount becomes Tk. 110,870 (Tk. 850,000×15/115). AB Limited will be required to deduct the applicable VAT at source before making payment and deposit the same to the Government exchequer within 15 working days of deduction.

The same process will apply if AB Limited hires the service from the other bidder and the bidder does not mention VAT amount separately in the issued Mushk-11. However, since XY Limited is unregistered, it appears that they did not consider VAT amount at the time of submitting the offer and it is unlikely that XY limited will allow deducting the VAT from its fee. In such case, AB Limited would be required to bear the applicable VAT (i.e. Tk. 110,870) from its own exchequer.

As per SRO# General Order no.-03/Mushak/2014 dated 05 June 2014 issued by the National Board of Revenue (NBR), a company has responsibility of mandatory deduction of VAT at source at the rate of 15% from a 'Security service provider' (service code S0 40) irrespective of the availability of Mushak-11. In addition, as per Rule 18 (L) of the VAT Rules 1991, the deducted VAT shall be deposited to the Government exchequer using the relevant Commissioner Code within 15 working days of deduction. As per Rule 19 (1 'K') of the VAT Rules 1991, 80% input VAT credit is allowed on security service. However, as per Section 9(1) (U) of the Value Added Tax (VAT) Act, 1991, input VAT credit shall not be allowed on any purchase without availability of valid VAT invoice (i.e. Musha-11). Therefore, merely the deduction of applicable amounts of VAT would not be sufficient to avoid the negative consequence of loss of input VAT credit.

In the given situation, PQ Ltd., as appointed by AB Ltd. to provide security service, is unwilling to issue the valid VAT invoice (i.e. Mushak-11). AB Ltd. is required to deduct applicable amount of VAT at source and should deposit the same to the Government exchequer within due time. However, in the absence of valid VAT invoice, AB Ltd. cannot take input VAT credit. Therefore, I would advise AB Ltd. to discuss with PQ LTD. to provide the valid VAT invoice.



**Question No. 5 (c):**

AB Ltd. is now negotiating a deal with ST Ltd. for purchasing television sets. AB Ltd. intends that ST Ltd. delivers the television sets to CD Ltd., a dealer of AB Ltd. But AB Ltd. wants that ST Ltd. issues "Mushak-11" challan in favour of ST Ltd. so that they would be able to get input tax credit on the purchase.

**Requirement:**

Advise AB Ltd. on the above.

5

**Answer to the question (5)(c):**

**Assumption:**

In the given situation, AB Ltd. wants that ST Ltd. issues Mushak-11 Challan in favor of ST Ltd. As per the current provision of the VAT law, a person cannot issue Mushak-11 Challan in favor of himself. Therefore, it is assumed that the question intends to mean to issue Mushak-11 Challan in favor of AB Ltd instead of ST Ltd. so that it can get input VAT credit.

As per Section 32 of the VAT Act 1991 read with Rule 16 of the VAT Rules 1991, any VAT registered person has to issue Challan in form "Mushak-11" for supply of every goods and such Mushak-11 challan has to be accompanied with the goods up to its final destination mentioned on it. Moreover, the purchaser's and seller's name, address, registration number and destination of goods etc. have to be clearly mentioned on the Mushak-11 Challan. As per Section 38 (2) (L) of the Value Added Tax (VAT) Act, 1991, the VAT able goods shall be confiscated if such goods are removed from the business premises with Mushak-11 Challan which does not accompany with the goods up to its destination. Moreover, as per Section 9(1)(U) of the Value Added Tax (VAT) Act, 1991, the products purchased are required to be brought into the premises of the registered entity in full to avail input VAT credit.

Therefore, for the given situation in the question, it is advisable to AB Ltd. to bring the televisions into its own premises first from ST Ltd. for avoiding the risk of confiscation by the VAT authority and availing input VAT credit. AB limited can then supply the purchased televisions to the CD Ltd. Provided that the name, address and VAT registration number etc. of AB Ltd. and ST Ltd. have to be clearly mentioned on the Mushak-11 Challan.

However, this suggestion may be impracticable to follow if the business premise of CD limited and ST is adjacent or nearer and that of AB limited is far away from ST limited. In that case, once getting the products from ST limited and then sending them back to CD may not be cost effective. AB limited in that case may open a small branch near to CD limited with a separate VAT registration, receive the goods from ST limited and immediately forward the same to CD limited. The branch will perform the necessary documentation work to get input VAT credit, deposit VAT in VAT Current Account and then sell the televisions to its dealer/customer.



## TAXATION-II

Nov-Dec 2015

### Question No. 1.

Mr. SMART (Bangladeshi), a civil engineer, is the MD of four operational entities, popularly called SMART group. His first unit is Smart Constructions Ltd. (SCL) in Dhaka, 2nd one is Smart Re-rolling Mills Ltd.(SRML) in Savar, the 3rd unit is Smart Trading Limited(STL) in Dhaka and 4th one is a trading arm(a branch of STL) in Italy engaged in sourcing EU-origin construction materials for Bangladeshi market including Smart construction projects. His wife, an architect, holds 10% with him in the limited companies. All units of Smart group follow accounting periodicity 'July-June'.

Key information from SCL financial statements for the period ended 30.06.2015 are (amount in Taka): Revenue Tk.500,000,000/=, Gross Income Tk.179,500,000/=. Other income Tk.1,500,000/=. Admin expense Tk.150,000,000/=. Financial expense Tk.11,000,000/=. Profit before tax Tk.20,000,000/=. Equity (share capital plus accumulated surplus) Tk.40,000,000/=.

Information gathered from SCL Financials (For consideration when computing total income)

#### 1. Other income includes the following:

- i) Two units of Excavator (original cost Tk.1,000,000/=, tax WDV Tk.700,000/=) sold for Tk.1,200,000/=. Company bought a replacement excavator for Tk.600,000/= on 25.06.15 under intimation to DCT. The new excavator was purchased by a bank loan.
- ii) Loss of Tk.300,000/= on sale of one unit Loader (Cost Tk.1,000,000/=, tax WDV Tk.400,000, Sale Tk.100,000/=).
- iii) Tk.1,200,000/= on sale of old vehicles (Cost Tk.900,000, tax WDV nil, fully depreciated)
- iv) Drop in market price of the shares (of a listed company) Tk.100,000/= charged.
- v) A unit of used bulldozer sold for Tk.1,000,000 (Normal profit Tk.200,000/= tax WDV in book Tk.800,000). This bulldozer was bought three years ago to replace a similar asset which was then sold at a capital gain of Tk.300,000/= on which capital gain tax was not paid u/s 31, 32(5)(b), being the capital gain on that sale was less than the replacement cost of the present bulldozer.

#### 2. Admin expense includes the following:

Depreciation on a SUV car depreciated at 20% p.a. on its purchase price of Tk.4,500,000/=(bought on 01.01.2015).

Salary and allowances paid to Chief Engineer total Tk.7,500,000 (including Tk.750,000/= as house rent allowance, being less than 50% of the total basic salary paid). Salary and allowance include basic salary, housing allowance, festival bonus and leave allowance).

Overseas traveling expense Tk.4,500,000/= including Tk.700,000/= incurred on a/c of CFO's trip to Rome on five-day company business accompanied by his spouse (BoD approved this on the principle of commercial expediency). Couple stayed with family of CFO's friend when in Rome.



Office common service charge paid to the lessor Tk.1,500,000/= (VAT has not been paid thereon by SCL as it doesn't constitute 'office rent' to the lessor under Service Code S074).

Guest house rent Tk.1,200,000/= (which is rented for providing accommodation to an expatriate engineering consultant on three-year contract). Expat consultant holds work permit with disclosed 'basic and 'overseas allowance' plus tax on expat salary and allowances payable by company (tax assessed per work permit disclosure and cleared).

Tk.500,000/= paid as commission to MD's spouse for her hands in getting a Government building project for SCL. Company maintains a policy of paying broking commission on securing construction projects.

**3. Financial expense includes** interest paid to a developer company for the defaulted installment on a/c of purchase of an office floor for the company. Purchase price is Tk.3,000,000/=: 75% paid off, balance delayed on which an interest paid to the developer Tk.250,000/= per agreement.

#### **4. Further information on Smart Construction Ltd. for the year ended June 30, 2015:**

SUV bought for MD for Tk.4,500,000/=. Section 19(27) of the Ordinance skipped attention.

SCL has significant borrowings from banks. SCL lent interest-free Tk.2,500,000/= to its sister concern (the 2<sup>nd</sup> unit). Proportionate interest cost 350,000/=.

The Branch in Italy and Smart Trading Ltd. : The trading arm in Italy is a branch of STL, a PE in Italy. STL investment of Italian branch has regulatory approvals. The 2<sup>nd</sup> company of Smart group (the steel re-rolling unit) was in financial strain a year ago when the Italian arm had idle funds. Having been approved by Regulators, Mr. Smart managed a foreign loan from the Italian arm to his re-rolling unit in Savar at 5% p.a on which the Italian branch received an interest earnings of net Tk.4,000,000/= after deducting tax at 20% (u/s 56(1)). Italian branch closed accounts on 30.06.2015 showing a tax adjusted 'trading business profit' of eqvt Tk.10,000,000 (tax paid in Italy taka equivalent Tk.2,750,000/= at 27.50%). Bangladesh corporate tax rate is 35%. According to Bangladesh-Italy DTAA, interest income may also be taxed in the Contracting State in which it arises and according to the laws of that state, but if the recipient is the beneficial owner of the interest income, the tax so charged shall not exceed 15% of the gross amount of the interest. Smart Trading Limited (STL) made a net loss of Tk.3,150,000/= in Bangladesh business for y/e 30.06.2015.

**You Joined Smart Group:** You are a newly-qualified ACA. You joined SMART Group as Group Tax Manager. Smart Construction Ltd. has a pending tax appeal case (first Appeal). Pending the appeal decision, a new development surfaces before you followed by a request from Appeal Commissioner for a financial grant and a souvenir advert for a school in his village that now pops up ethical situation for you to handle. You and Commissioner come from the same district and know each other very well.

**Expansion into new Tiles Factory:** Mr. Smart understands industry well and expansion with core competency is his outlook. His next plan is to operate a ceramic tiles factory. Smart Trading Ltd. (STL, the 3<sup>rd</sup> unit of Smart group) is capable to sell tiles and other building solutions, whereas STL business of imported trading is erratic now due to Govt. fiscal slaps on imported materials. STL has built accumulated loss as on 30.06.15. Mr. Smart is keen to utilize STL retailing capacity for the tiles factory. An in-operation tiles factory 'Trendy Tiles Ltd.' (TTL) is on offer for acquisition. Mr. Smart is in the middle of three options – whether to merge STL with TTL or acquire TTL assets or buy TTL shares. Before he decides, Mr. Smart wants to listen to a tax-neutral advice on the three options hinting the (i) ability of STL to carry forward and set off its losses against the future profit of the



acquired and (ii) avoidability of capital gain tax on the transfer and consideration under the provisions of Income Tax Ordinance 1984.

### Requirements:

- (a) Calculate the total income and tax payable of Smart Construction Ltd. for the income year ended 30.06.2015. Your answer should include separate computation for Capital Gain tax. Explanation/appropriate assumptions in support of your adjustment to the disclosed profit should be given. 15
- (b) Compute tax liability of Smart Trading Ltd. (STL, the 3<sup>rd</sup> unit) for the period ended 30.06.2015. Computation should clearly reflect the relief, if any, under DTAA. 10
- (c) Evaluate ethical issues and explain how you would take up the Commissioner's request with your MD and how you would conclude on the matter. Your explanation should cover appropriate threats and safeguards, if any, and your conclusion on the matter with actions. 10
- (d) Brief three options (STL to merge with TTL, STL to acquire TTL assets, STL to acquire TTL shares) in terms of the pros and cons under the provisions of the Ordinance so as to address Mr. Smart's interests. 5

### **Answer to Question No. 1(a)**

#### **Computation of Capital Gain and Gain Tax of Smart Construction Ltd. u/s 31:**

	<u>Sales - WDV</u>	<u>Business income</u>	<u>Capital Gain</u>
(i) Sale of Excavator	500,000	3,00,000	2,00,000
(ii) Sale of Loader	(300,000)	(300,000)	
(iii) Sale of old vehicles	12,00,000	9,00,000	3,00,000
(iv) Drop in m/v of shares	(100,000)	-----	-----
(v) Sale of Bulldozer	2,00,000	2,00,000	3,00,000
	-----	-----	-----
Total	15,00,000	11,00,000	8,00,000

Less: Capital gain on sale of excavator not to be taxed

as option exercised u/s 32(5) of ITO, 1984 (200,000)

-----  
6,00,000

Capital Gain Tax at 15% 90,000



**Note:**

- (i) **Sale of Excavator:** Sale 12,00,000 – WDV 700,000 = Profit 5,00,000 (Business income 300,000, Capital Gain 200,000). There will be no capital gain tax on taka 200,000/= as the amount is less than the new same capital asset purchased by the company, even at bank loan. So, taka 300,000/= shall be added to the business income u/s 28 of the company. Ref sections are: – 19(16), 32(5)(b) & 28.
- (ii) **Sale of Loader:** Sale 1,00,000 – WDV 4,00,000 = Business Loss 300,000/=. This loss is fully deductible and chargeable against revenue during the year. Ref section 29(1)(xi) read with Para 10(c) of 3<sup>rd</sup> Sch.
- (iii) **Sale of old vehicles:** Sale 12,00,000 – WDV nil = Total gain 12,00,000/=(Business income 9,00,000, Capital Gain 3,00,000).
- (iv) **Drop in m/v of listed company shares**-not to be recognized as loss due to the fact that it was not sold. So this is not deductible.
- (v) **Sale of Bulldozer.** This was a replacement asset three years ago when a capital gain of taka 3,00,000 was not taxed u/s 31 & 32(5)(b). To compute the profit on present sale of this bulldozer, the WDV shall be reduced by the earlier capital gain which was not taxed three years ago on the same asset replacement. So, WDV for the purpose of computing business income u/s 19(16) of this bulldozer shall be 8,00,000/= less 3,00,000 = 5,00,000/=. Total gain on present sale of bulldozer should therefore be: 200000+300000=500000/=(Business income 200,000+capital gain 300,000)

**Computation of Total Income of Smart Constructions Limited u/s 28:**

	<u>Taka</u>	<u>Taka</u>
Disclosed profit before tax	2,00,00,000	
Less: Entire other Income (for separate consideration)	<u>15,00,000</u>	
	1,85,00,000	
Add: Business income on sale of various assets (note above)	<u>11,00,000</u>	1,96,00,000
<b>Add: Inadmissible exp-</b>		
(i) <b>Accounting depreciation</b> on SUV 20% on 45,00,000		9,00,000
Less: Tax depreciation on SUV 20% on 25,00,000		<u>5,00,000</u>
(Para 11(6) of 3 <sup>rd</sup> sch. Applied max ceiling as per F.A 2015)		4,00,000
(ii) <b>House rent paid to Chief Engr.</b> Taka 7,50,000/=. This is a perquisite.		
Addition for excess perquisite (750000 – 450000= 3,00,000).		3,00,000
(Section 30(e),2(45). F.A. 2015 applied.)		
(iii) <b>Overseas Traveling Expenses</b> incurred by CFO taka 700,000/= Admissible.		----

This is incurred on commercial expediency, under BoD approval. Hotel cost saved.



Moreover overseas travelling exp. Tk.45,00,000/ is within the limit of 1%

of turnover u/s 30(k).  $Tk.500,000,000/ \times 1\% = 50,00,000/$

- (iv) **Office service charge** paid to Lessor taka 15,00,000/=.

(This is inadmissible u/s 30(aa) as the payment is not VAT-exempted as per 15,00,000

2<sup>nd</sup> Sch. or by any specific SRO of VAT. VAT SRO 182 of 2012 for truncated VAT rate 9%

on office rent(S074.00). Office service charge paid to the same lessor

under same lease agreement should be assumed to attract same VAT as office rent.)

- (v) **Guest house rent** taka 12,00,000/= for Expat Engr. Consultant.

Consultant's personal tax assessed and cleared only on basic pay

and overseas allowance as per BOI permission. Therefore, the guest

house rent deduction claimed by the company is inadmissible 12,00,000

- (vi) **Commission paid to MD's wife** in securing business

should be admissible as any other ordinary commission. -----

(Assumed tax deducted).She is 10% shareholder but not the shareholder

director of the company. So the restriction of section 30(L) would not be applicable.

- (vii) **Interest paid to Developer on defaulted installment** payment on a/c of

office floor space. Inadmissible expenditure as no such expenditure is

allowable u/s 29. Moreover it is part of capital expenditure. 2,50,000

- (viii) **SUV bought for taka 45,00,000/= but section 19(27) missed compliance.**

Tax on this shall be considered later at income from other sources u/s 33

(Equity

4,00,00,000/=. 10% of this 40,00,000/=. SUV price 45,00,000/=

Excess of SUV price over 10% of Equity =  $5,00,000/ \times 50\%$  of this 2,50,000/=

- (ix) **Proportionate interest for lending interest free loan to**

Sister concern as per section 29(1)(xxvii)

350,000

**Income from business as per section 28**

**2,36,00,000**



### Computation of Tax Liability of SCL

	<u>Amount</u>	<u>Tax Rate</u>	<u>Tax Amount</u>
Income from business u/s 28	2,36,00,000	35%	81,60,000
Income from other source u/s 33(d) (tax on SUV purchase, Section 19(27))			
50% of 10% Excess of Cost over Equity	2,50,000	35%	87,500
Capital Gain u/s 31	6,00,000	15%	90,000
			83,37,500
		<b>Total Tax</b>	

#### Answer to Question No. 1(b)

Branch of Smart Trading Ltd.(STL) in Italy is a tax non-resident assessee but a Permanent Establishment(PE) in Italy. STL, being a resident assessee in Bangladesh computes its total income and tax liability world-income basis. The Computation of tax liability of STL shall, therefore, be as follows for the income period ended 30.06.2015(Assessment Year 2015-16), amount in Bangladesh taka:

		<u>Income</u>	
<u>Particulars</u>		<u>Amount</u>	<u>Tax Rate</u>
Net profit (loss) before tax of STL		(31,50,000)	
ADD:			
Trading profit(tax adjusted)			
of STL Branch in Italy	$27,50,000 \times 100$		
	27.50	1,00,00,000	
Interest income of			
of Branch in Italy	$40,00,000 \times 100$		
	(100-20)	50,00,000	
		1,18,50,000	
			35%
			41,47,500 Gross Tax



LESS:

Tax paid at source in Bangladesh

on interest income by STL

branch in Italy.  $50,00,000 \times 20$

100

10,00,000

31,47,500

LESS:

Foreign tax credit on tax paid in Italy on the income of the STL branch

in Italy as per provision of section 144(4) read with 7<sup>th</sup> Schedule(Para-2).

27,50,000

Balance Tax Payable 3,97,500

Note: Branch in Italy, not being beneficial owner of the interest income, cannot take advantage of the DTAA for lower tax rate of 15% on interest income.

### Answer to Question No. 1(c)

I am at a fix what to do. Following circumstances are going through my mind:

- (1) Causes of the requested grant and advert are social (school), not for the Commissioner.
- (2) MD expects delivery from me on the appeal case that involves huge disputed tax demand.
- (3) MD may not deny the request for grant weighing on gravity of the appeal case and social causes.
- (4) MD may be upset if the appeal decision is not coming his way.
- (5) My commitment in new job is either not less, appeal case may sound an opportunity to prove.
- (6) How will MD react if appeal decision coming negative even after making the grants and advert.
- (7) If we regret and appeal decision coming negative, MD might take 'an opportunity slipped away'.
- (8) Commissioner hopes for a positive response from me as closely known and for appeal case.
- (9) This may be an inducement which may influence appeal judgment of the Commissioner.
- (10) Making grant and favorable appeal decision may sound buying the decision which is unlawful.
- (11) Relationship with the Commissioner in future may turn lukewarm, if not sour, if I fail to meet.
- (12) This is the first appeal; either party unhappy with the order shall make further appeal.



LESS:

Tax paid at source in Bangladesh

on interest income by STL

branch in Italy.  $50,00,000 \times 20$

100

10,00,000

31,47,500

LESS:

Foreign tax credit on tax paid in Italy on the income of the STL branch

in Italy as per provision of section 144(4) read with 7<sup>th</sup> Schedule(Para-2).

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- (9) This may be an inducement which may influence appeal judgment of the Commissioner.
- (10) Making grant and favorable appeal decision may sound buying the decision which is unlawful.
- (11) Relationship with the Commissioner in future may turn lukewarm, if not sour, if I fail to meet.
- (12) This is the first appeal; either party unhappy with the order shall make further appeal.



With the above in my mind, I now identify the various threats as I see in my handling the issue. Commissioner's request for grant and advert for his school may be coined as a form of pressure for 'inducement' to gain a favorable appeal decision for my company, an element of intimidation threat. Commissioner's request is a commercial pressure from outside, a sense of intimidation threat. My acquaintance with Commissioner and we both being in same association may influence my decision to advise MD to agree, a case of familiarity threat. If Commissioner's request is not met and appeal decision comes negative, MD may get upset this may cost my new job, issue of self-interest threat.

I am a PAIB, obliged to comply all IESBA fundamental principles including Professional Behavior as it imposes obligation on me to comply relevant regulations and avoid any action that may discredit my profession. If I am seen to act ethically demonstrating my professional obligation, my conduct may rather be appreciated both by my MD and the Commissioner. I must work ethically above all doubts of identified threat. In my evaluation, the threats identified are significant. I am in the middle of sensitive issue, knowing that my MD would seek my advice when I would discuss the issue with him. My connection for the grant decision (advising MD) and the matter between appeal decision and company benefits are deep and significant. Nature of the issue is significant. I should not make an inducement which may hint a wrong intent and may improperly influence the Commissioner in appeal decision. Although school would benefit, not the Commissioner, both are associated. Smart group doesn't have any social giveaway policy to consider to assume as a safeguard for my advice to MD. If the inducement results into influence to gain appeal decision for the company, it would be an unlawful act. Under the circumstances, I would handle the situation in the following manner to uphold ethical principles:

I shall pass on Commissioner's request for grant and advert to my MD, brief him about pending appeal decision with the Commissioner, my position as a PAIB and the ethical principles that apply to my job. Finally, I shall advise my MD not to give in to Commissioner's request. I shall seek my MD's permission to visit the Commissioner to communicate our decision to him.

I shall personally visit the Appeal Commissioner and shall also brief him about my ethical threats as PAIB if responding to his requests at this moment. I shall tell him about the discussion me and my MD have done on this. I shall convey him our wishes for the continued success of his social projects including his school. Finally, I shall conclude the meeting with Commissioner after my final words of regrets for not being able to respond to his requests under the circumstances, prominently pushed by ethical threats.

#### **Answer to Question No. 1(d)**

Mr. Smart wants brief about tax law provisions with respect to imaginary options of 'STL amalgamating with TTL', 'STL to acquire TTL assets' and 'STL shareholders to acquire TTL shares'.

STL to amalgamate with TTL: An amalgamation u/s 2(2) does not involve transfer of capital assets subject to capital gain tax and also the carry-forward of amalgamating company loss is not legally possible u/s 42(4). STL is transferor or amalgamating company, TTL is transferee or amalgamated company. Section 2(2) provided three conditions: (i) all assets of STL shall become assets of merged TTL after merger, all liabilities of STL shall become liabilities of merged TTL after merger, minimum 90% of the shareholders(in value) of STL shall become shareholders of merged TTL after merger by issue from TTL. Vesting the STL assets on TTL does not meet the definition of 'transfer' in the law u/s 2(66) and, so, no capital gain tax arises u/s 31 and 32. There is no sale of capital assets in amalgamation u/s 2(2). There is no 'price' paid for the assets vested. Amalgamated company issues shares to shareholders of amalgamating company without any payment for shares; the assets of amalgamating company vest in amalgamated without any payment.



There is no mutual transfer of ownership of one item for the ownership of another in an amalgamation. However, if amalgamation scheme conditions for TTL make consideration to the shareholders of STL partly in shares and partly in cash, the 'cash consideration' shall attract measurement of capital gain for tax u/s 31, 32. Upon the amalgamation is effected under court sanction, the transferor or amalgamating company stands dissolved. Carry-forward of the loss of amalgamating company for set-off against profit of amalgamated company is not possible in that a discontinued company (STL) cannot carry forward its loss u/s 42(4).

STL to acquire TTL assets: Acquisition of assets involves tax liability on assets transfer on transferor/seller(TTL) and the carry-forward of the loss of the seller(TTL), if any, is not possible u/s 42(4). This is a deal of assets sale (entire TTL) to STL. Capital assets (as per agreement of assets and consideration) transfer shall attract tax u/s 28, 31 and 32. If the assets consideration is shown lower to avoid VAT and duties, section 19(8) may be applied for fair market value application. The right to carry forward loss lies with the company which makes loss. So, TTL loss, if any, cannot be carried forward by STL after TTL is bought over. Section 42(4) only allows the carry-forward facility in the case when a company is succeeded by other by inheritance, not on ordinary asset sale.

STL to acquire TTL shares: Taking ownership by shares are two routes --- subscription from company and transfer from the shareholders. In share subscription from company, no tax incurs on allotting company on the receipt of subscription amount. If it is 'transfer of shares from shareholders (say, TTL shareholders to STL shareholders), transfer attracts 'capital gain tax' on the transfer u/s 31, 32, tax being on the seller. Re carry-forward of loss of selling company (say, TTL), if any, the buyer (say, STL) cannot carry forward such loss u/s 42(4), 38. It is the right of the company to carry forward loss only which suffers it (here it is TTL) and 'continuity of same business in which the loss is incurred' is a condition for carry-forward which practically ceases after TTL is bought by STL by way of share acquisition.

## Question No. 2.

Your tax client Ms. Nusrat Kabir, an architect, has family of three. Her husband, a CA, and her only son who is a second year undergraduate in USA (attained 18 in July 2015). Nusrat is on payroll of one company, 'Engineers & Architects Ltd. (EAL). She also provides casual consultancy. She is an E-TIN holder. Gathered from the IT-10B (wealth statement) for 30.06.2014, the net assets of Ms. Nusrat attracts her to 10% surcharge on her annual tax liability with a trend of her quickly graduating to 15%. She wants a legal exit from the increasing burden of such a high surcharge coupled with such high taxability by re-structuring her wealth if necessary. Extracted from her wealth statement (net assets on 30.06.14 being Tk.95,000,000/=, **the major assets are:**

Six-storey building (10 flats), constructed in 2014, in her native upazilla of Rouzan, Chittagong.

Apartment in Dhanmondi (250 SQM) rented.

Office floor space (120 sqm) in Uttara. This was bought in 2014 with a bank loan.

Industrial plot in Gazipur(two blocks-100 dec and 50 dec. Bought in 2009 @ Tk.60,000/= per decimal).

Shares in public listed company(as sponsor shareholder).

FDR in commercial banks (Tk.15,000,000/= including Tk.7,500,000/= in the name of her only son).

Personal cash loan (from mother). Nusrat is the only daughter of her parents.



Personal loan from husband

Particulars of Nusrat Kabir's income during the income year ended 30.06.2015:

**Income from Salary:** Basic pay Tk. 2,400,000/=, Medical insurance cover with hospitalization amounting to Tk. 120,000/=, Company provides free accommodation (i.e. the apartment of her husband). Nusrat made a lease agreement between her husband and her employer at a monthly rent of 50,000/=.

**Income from House Property:** Rent from Dhanmondi flat tk. 400,000/=(full amount received in cash), from Rouzan residential building Tk. 300,000/= and from Uttara office space Tk. 30,000/= monthly (rented from January 2015 to a company under a lease agreement for two years; security deposit non-adjustible against monthly rent received Tk.250,000 on Uttara space). Amount spent on repair/security salary etc on Dhanmondi flat Tk.125,000/=, on Uttara office space Tk. 100,000/=. She paid Interest on bank loan(a/c Uttara office space) Tk. 200,000/=.

**Income from other source:** Casual consultancy income net of tax 10% u/s 52(A)(3) Tk. 900,000/=. Sold listed company shares (sponsor) Tk.1,000,000/= (cost 700,000), section 53M applied. She received interest income Tk. 810,000 NET on FDR post tax-deduction by bank at 10%. She sold one part of her Gazipur industrial land (50 decimal) at deed value of Tk.5,000,000/= (3% gain tax u/s 53H applied); brokerage incurred 5% of deed value. Consultancy provided on-line to a foreign company in which Nusrat received through banking channel Tk. 108,000 net after tds u/s 52Q.

#### **Other Information:**

Nusrat's mother told her not to pay back personal loan Tk.100,000/= in writing and also she gifted Nusrat Tk.250,000/= worth of private company shares. Nusrat bought a laptop (worth Tk.50,000/= taka) out of the allowance made available to her by the EAL Employees Welfare Trust. She received a 10-day long company-paid training in Singapore where EAL incurred Tk.500,000/=. Nusrat sold her old SUV car for Tk.2,500,000 (cost 4,500,000) which she bought in 2012. She bought a replacement SUV at Tk.5,000,000/= in the income year. She remitted US Dollar of equivalent Tk.1,000,000 during the year to her son in USA through an official student file with an AD. Interest paid Tk.300,000/= on bank loan a/c Uttara office space during construction period of 2013-2014 (taken delivery in January 2015).

Nusrat's employer 'Architects & Designers Limited' (EAL) is the subsidiary of reputed Engineers Ltd.(EL), a PLC. Under Regulators approval, EL introduced a Stock Option policy for the senior employees of the group companies, conditionally. The option is exercisable at a price 75% below the market on the date of option. EL stock option holds promise for many reasons. At the moment, Nusrat heard that there is a tax exposure upon her exercising the option in the same income year. Nusrat is keen to exercise the option but perturbed as to why she should be charged to tax for merely holding the shares, before she sells those and more for that fact that EL is not her Employer(EL is a third party to Nusrat).

#### **Requirements:**

- (a) Compute total income and gross tax liability of Ms. Nusrat for the assessment year 2015-16. 10
- (b) Explain your views on whether Nusrat shall be charged to tax for her stock option from EL and what tax effect shall attract her when she will sell in future those shares under option. 5



- (c) Advise Nusrat on the planning to restructure her wealth so as not to contain the net wealth below 2<sup>nd</sup> slab that attracts her to 15% surcharge on income tax. 5

### Answer to Question No. 2(a)

Computation of Total Income and Tax Liability of Ms. Nusrat Kabir for the AY 2015-16:

#### Income from Salaries u/s 21

	<u>Taka</u>	<u>Taka</u>
(1) Basic Salary	24,00,000	
(2) Rent-free accommodation (Rule 33B)–25% of basic salary		
or		
Rental value of the accommodation whichever is lower -	6,00,000	
(3) Medical cover – Actual 1,20,000/		
or		
10% of Basic salary Tk. 2,40,000		
or		
1,20,000/= whichever is less	--	nil
(4) Allowance from EAL employees welfare trust	50,000	
	-----	30,50,000

#### Income from House Property u/s 24

(1) Annual Value from Dhamondi flat	4,00,000		
Less: Statutory Repairs 1/4 <sup>th</sup> u/s 25(1)(h)(i)	<u>1,00,000</u>	3,00,000	
(2) Rent from Rouzan building	300,000	nil	(exempted as per Para 38 of 6 <sup>th</sup> Schedule, part A assuming the building was completed within 30/6/2014)
(3) Annual Value from Uttara office space (30,000x12)	3,60,000		
Less: (a) Statutory repairs 30% u/s 25(1)(h)(i)	1,08,000		
(b) Vacancy allowance [30,000x6 months]	1,80,000		
(c) Interest paid on Uttara space u/s 25(1)(g)	2,00,000		
(d) 1/3 <sup>rd</sup> of construction period interest u/s 25(1)(gg)	<u>1,00,000</u>	5,88,000	
	(2,28,000)		
(4) Deemed HP income from Uttara office space u/s 19(30) [1,08,000-1,00,000]		8,000	



(5) Deemed HP income from Uttara office space u/s 19(22)

2,50,000 30,000

### Capital Gain u/s 31

(1) Gazipur land sale (50 dec) (50,00,000 less 50x60,000) 20,00,000

Less: Brokerage incurred on land sale (5% of D.V.) (2,50,000)

17,50,000

(TDS u/s 53H at 3% 150,000. Final discharge u/s 82C (Tk. 150000x100/15)= 10,00,000

The balance Tk. 17,50,000-10,00,000=7,50,000 will direct fit at

serial no 17(3) of wealth statement(IT 10B) as per NBR circular

Sale of SUV (Cost 45,00,000, Sale 25,00,000 = no gain).

Here loss Tk. 20,00,000. It is not capital loss as per section 2(15).

Only asset will be decreased by Tk. 20,00,000 at wealth statement.

(2) Capital gain on sale of listed company shares(10,00,000-7,00,000) -- 3,00,000 (TDS  
u/s 53M at 5% = Tk. 15,000/=. Final discharge u/s 82C.

Tax rate is also 5% as per SRO no 196 dated 30.6.2015) ----- 13,00,000

### Income from Other Sources u/s 33

(1) From casual consultancy Net 9,00,000/=. gross up using 10% TDS-- 10,00,000

(2) FDR interest net 8,10,000, gross up using 10% TDS 9,00,000

(3) Consultancy income on-line net 108,000 gross up using 10% TDS 1,20,000

(4) Cancellation of indebtedness(personal loan from mother) u/s 19(11) 1,00,000

21,20,000

TOTAL INCOME 65,00,000

**Note-1:** Gift of Private company shares from Mother not taxable being gift.

**Note-2:** company expenditure on foreign training is not part of salary as it is business related expenditure of the company.

### TAX CALCULATION

#### Computation of Gross Tax Liability on total income other than capital gain:

On first taka 3,00,000/= at 0% --

On next taka 4,00,000 at 10% 40,000



On next taka 5,00,000	at	15%	75,000	
On next taka 6,00,000	at	20%	1,20,000	
On next taka 30,00,000	at	25%	7,50,000	
On the balance 4,00,000	at	30%	1,20,000	
				11,05,000
Gain tax on sale of land $10,00,000 \times 15\% =$				1,50,000
Gain tax on sale of listed companies share $3,00,000 \times 5\% =$				15,000
<b>Gross tax liability:</b>				<b>12,70,000/</b>

### Answer to Question No. 2(b)

The stock option offered by Engineers Limited is 75% below the M/V. When Nusrat Kabir exercises her option to take the shares, no gain will arise as gain can only arise at the time of disposal. When she will have sold those shares, the price she now pays for option shall be the cost of acquisition for the purpose of measuring capital gain u/s 31 and 32.

That the offering company EL is not Nusrat's employer and so the benefit on option should not be termed as taxable perquisite; an indirect relationship through the subsidiary is not enough to bring her within the meaning of employee as defined u/s 2(28). Moreover it would not be the deemed income u/s 19(8) as because stocks and shares are excluded from there.

### Answer to Question No. 2(c)

The net wealth of Ms. Nusrat Kabir as on 30.06.2014, one year ago, was taka 9,50,00,000/=. Rate of surcharge is 10% upto net wealth taka 10,00,00,000/=. It appears, her net wealth would shoot to the 15% surcharge level in this year tax return. The restructuring of wealth may reduce her wealth level below 15% surcharge threshold while income on those assets would move out of her file. As a result, the tax on the highest slabs of 30% tax shall overall reduce.

If she agrees, immediate restructuring recommendation can be:

- Obtain a separate TIN file in the name of Son. Her son attained majority in July; so it is possible to open tax file in his name.
- Transfer FDRs for taka 75,00,000/= now in the name of Son to his own tax file while Ms. Nusrat can remain operating nominee for with full power of attorney to manage the assets of her Son.
- Some other income-generating but small assets (such as gifted shares) can also be transferred (under gift) to the Son. This will reduce Nusrat's tax outright at the highest rate of 30%.
- Her free-lancer consultancy income is added to total income in gross. Subject to no-objection from her employer, she can choose to obtain a trade license and set up a proprietorship firm to provide casual consultancy. This firm shall open up scope to create charges against revenue that will lead to reduction of tax liability at highest rate of 30%.



### Question No. 3.

You are an ICAB CA, Tax Partner of a firm of Chartered Accountants. Your clientele includes Good Hope Limited (GHL) which is a public company in Bangladesh. You are in the process of gathering information to prepare 'Statement of international transactions' u/s 107EE of the Income Tax Ordinance 1984 and Rule 75A thereof to go with the Tax Return of GHL for the year ended 30.06.2015. This will be the first return of GHL with international transactions statement under TP regulations (Chapter XIA of the Ordinance). As all Associated Enterprises (AE) may not have international transactions for TP reporting, identifying those Associated Enterprises that have International Transactions are critical for a correct tax Return under TP provisions and for the statement u/s 107EE, Rule 75A. Related Party Disclosure in the audited accounts provides important sources of transactions with TP sensitivity, if not all. Following Notes to the Accounts on 'Related Party Transactions' are extracted from the Annual Report of Good Hope Limited for year ended 30-06-2015 (previous year's figures unconsidered):

#### GOOD HOPE LIMITED

NOTES TO THE ACCOUNTS: Related Party Transactions on Arms' Length Basis (Amount in BDT):

##### Associate Companies

A Ltd. (a Hong Kong registered company in HKG) is the wholly-owned subsidiary of GHL.

B Ltd. (a Bangladeshi company in Dhaka) in which Mr. Anwarul Karim (Chairman of GHL) is a Director

C Ltd. Branch (A Hong Kong Branch in Bangladesh) which is wholly-owned by A Ltd.

D Ltd. (Bangladesh registered/managed Indian subsidiary), Indian parent company fully owned by A Ltd.

E Ltd. (A Bangladeshi company) wholly-owned by GHL which is an exclusive 'AGENCY' of A Ltd. of HKG.

##### Joint Venture Company

F Ltd. (An Indian-BD JV in Delhi), GHL holding 24%, in which GHL's Mr. Anwarul Karim sits as Chairman.

G Ltd. (a French-BD JV, managed in BD) where GHL holds 51% and a French Company holds 49% shares.

##### Key Management Personnel and Relatives

KMP : Mr. Anwarul Karim, Chairman of GHL.

KMP Relative: Ms. Tania Karim, daughter of Mr. Anwarul Karim and a French, Country Mgr of French LO.

(Figures in Taka)

Nature of Transactions	Associate Companies	Joint Venture Companies	Key Managerial Personnel (KMP)	Relatives of KMP	French Liaison Office where KMP relative interested	TOTAL
Goods sold(1)	20,000,000				1,000,000	21,000,000
Fixed assets purchased(2)	1,000,000	500,000 (with F Ltd)				1,500,000
Loan Given(3)	5,000,000	1,500,000 (with G Ltd)				6,500,000



Interest income(4)	1,000,000	300,000 (with G Ltd)				1,300,000
Dividend income(5)	600,000	50,000 (with F Ltd)				650,000
Recovery of Expense(6)	1,500,000			500,000		2,000,000
Royalty received(7)	250,000					250,000
Remuneration			5,500,000			5,500,000

Notes on the break-up of various transactions made by GHL with Associate Companies:

Goods Sold: A Ltd. Tk.5,000,000/=, B Ltd. Tk.2,500,000/=, C Ltd. Tk.2,500,000/=, D Ltd. Tk.5,000,000/=, E Ltd. Tk.5,000,000/=

Fixed Assets purchased: B Ltd. Tk.500,000/=, C Ltd. Tk.300,000/=, D Ltd. Tk.200,000/=.

Loan given: D Ltd. Tk.3,000,000/=, E Ltd. Tk.2,000,000/=.

Interest Income: D Ltd. Tk.600,000/=, E Ltd. Tk.400,000/=.

Dividend Income: A Ltd. Tk.500,000/=, E Ltd. Tk.100,000/=.

Recovery of Expense: B Ltd. Tk.1,000,000/=, D Ltd. Tk.500,000/=.

Royalty received: A Ltd. Tk.250,000/=.

Transfer Pricing (TP) Regulations are now in spotlight in Bangladesh with first tax return under TP regulations due this year. Over 1500 BOI-permitted Liaison Offices in Bangladesh form largest segment of foreign interests in numbers. Liaison Office (LO) shown in the Good Hope Ltd. 'Related Party Disclosure Note' above belongs to a French retailer (company). Information of this French Liaison Office, details about how you got introduced to the Country Manager, concerns of parent company management with respect to TP provisions applicability to LO, key transactions with parent company, your meeting with Tania Karim, the Country Manager of LO, her personal tax matters etc. are in EXHIBIT 1.

### **Requirements:**

- (a) List the 'international transactions' from above-mentioned Related Party disclosure of Good Hope Ltd. in terms of TP provisions u/s 107EE of the Income Tax Ordinance 1984 mentioning the relevant 'Associated Enterprise(AE)', 'Nature of transactions', 'Amount Received', 'Amount Paid' to form inputs for Statement of International Transactions(no need to follow format of 75A).

6

- (b) Peruse and consider Exhibit 1. Make a professional opinion for Ms. Tania Karim covering TP exposure, if any, for the French parent company with the Liaison Office in Bangladesh. Your opinion should, interalia, include if this LO is an AE u/s 107A(2) of the Ordinance for the purpose of its own tax return



filing in Bangladesh and if so what constitutes its international transactions for y/e 30-06-15 from the information in Exhibit 1, its probable exposure under TP regulations, your conclusive recommendation(showing reasons) with guidelines for upcoming tax return of this LO.

10

- (c) Ms. Tania seeks your further consultation on her personal tax issue. Please explain with reasons if DCT's order is correct and what should Ms. Tania do now under the circumstances. 4

#### EXHIBIT I(In connection with Question 3b, 3c)

##### Information on French Company's Liaison Office in Dhaka

This BOI-permitted Liaison office (LO) in Dhaka is owned/controlled by a French RMG retailer (private limited company). The LO is engaged in QC, inspection, liaison of French company's RMG orders placed directly with suppliers in Bangladesh. Ms. Tania Karim, daughter of GHL Chairman studied Fashion Design in Paris and accepted French nationality. Tania joined this LO as the Country Manager with Work Permit from BOI (effective 16.01.2015). National Board of Revenue (NBR) conditionally allowed Liaison Office dispensation from tax liability and on meeting those conditions, a LO shall not be assumed of having any commercial activity u/s 18(2)(a) of the Income Tax Ordinance and, thereby, made LO a tax-exempt entity. Major conditions for tax-exempt LO, inter alia, include *inward remittance from parent company to meet 100% local expenditure, it works only on behalf of its parent company, it engages in inspection, quality control and liaison of the parent company export orders, it doesn't involve in self-buying or in own name and it does not engage in any local income activity*. This LO complies all conditions. Exports executed for French company through the liaison of this LO during the year ended June 30, 2015 is USD 10 million. This LO brought in from its parent company foreign currency equivalent of Tk.10,000,000/= during the year ended June 30, 2015 through the bank to meet its local expenditure; current tax return filing due by December 31, 2015.

You, in the capacity of Good Hope Ltd. tax adviser, were introduced to Ms. Tania by her father. French management advised Tania to consult a tax lawyer covering the TP exposure, if any, of the Liaison Office. It is argued that a LO operates like a conventional 'buying house' and Bangladesh misses tax on LO transactions as it allegedly fails to meet Comparable Uncontrolled Price(CUP)method tests. Under Bangladesh-France DTAA, a Permanent Establishment (PE) does not include *foreign entity which maintains a fixed business place solely for the purpose of purchasing goods or of collecting information for the enterprise*. Tania met you on 31.07.2015.

Ms. Tania came to Bangladesh for the first time in five years and joined this Liaison Office as a French expat from 16-01-2015 at monthly salary of USD 7000/=( Tk.550,000/=). Tania's bank a/c with HSBC Dhaka delayed. French parent company paid Ms. Tania initial 3.5 months salary (from 16.01.15 to 30.04.15) into her Paris bank account instead. She received salary in Dhaka for May and June, after HSBC account is operational from May. Tania filed her own tax return for the Assessment Year 2015-16(accompanied by Work Permit copy and tax pay order at highest rate on for gross two months salary – May and June). DCT took the view that the taxability arises in the country where service is rendered and he issued AO with additional tax demand at highest rate taking into account salaries for the entire period from which BOI Work Permit has been effective (from 16.01.15 to 30.06.15).

#### Answer to Question No. 3(a)

Section 107A(2) defines Associated Enterprise(AE) as an enterprise(as defined) which bears defined relationship with other enterprise. To be AE, there must be two or more enterprises. For a transaction to be 'international transaction', mere presence of two enterprises with defined relationship is not enough. In other words,



transactions between two resident parties are not international transactions. For a transaction to be 'international transaction', either or both of the AEs must be non-resident. As GHL is a resident company in Bangladesh, all AEs of GHL for the purpose of international transactions must be non-resident.

The list of international transactions with Good Hope Limited is tabulated below (not in the format of Rule 75A)

### GOOD HOPE LIMITED (GHL)

#### List of International Transactions

For the year ended 30.06.2015

Associated Enterprise	Transaction Nature	Amount Received (Tk.)	Amount Paid (Tk.)	Explanation
A Ltd.	Goods Sold	50,00,000		GHL holds >25% shares in A Ltd.(a non-resident)
	Dividend income	5,00,000		
	Royalty received	2,50,000		
C Ltd. Branch	Goods Sold	25,00,000		C Ltd. is a HKG branch (non-resident) in Bangladesh; owned by A Ltd.
	Assets bought		3,00,000	
G Ltd. India-BD JV	Loan Given		15,00,000	G Ltd. is a non-resident in India. Although GHL holds less than 25% share, the common person (Mr. Anwarul Karim) sits in GHL and G Ltd. board
	Interest Income	3,00,000		

#### Answer to Question No. 3(b)

Question is to provide opinion on whether French Liaison Office is an AE u/s 107A(2) and, if so, what constitutes international transactions for its own return filing. Opinion should also identify the potential exposure of the French Liaison Office in Bangladesh under the Transfer Pricing Regulations (Chapter XIA) of the Income Tax Ordinance 1984 with the recommendation. Answer to this question is given below in the form of a letter to the Country Manager.

Date:.....

To Ms. Tania Karim

Country Manager

French Liaison Office in Dhaka

Please refer to your meeting with us on 31.07.2015 at our office when you seek our opinion on the taxation matter of your Liaison Office under the Transfer Pricing regulations in Bangladesh. Considering our discussions and the contents of Exhibit 2 of the question, we are providing our opinion in this regard as follows:



## BACKGROUND AND UNDERSTANDING OF THE ISSUE

Liaison Office is given dispensation from tax liability under the NBR Circular no-10(2)Tax-8/96 dated 21/10/1998 on fulfillment of certain conditions and on the same count, NBR confirmed, Liaison Office shall not be assumed as having any commercial activity u/s 18(2)(a). Your French Liaison Office reportedly complies all conditions of the NBR circular; it files annual tax return and obtains tax clearance on zero tax demand. French company places direct orders with Bangladeshi RMG suppliers who raise invoices direct to French company (USD 10 million exports). Liaison Office simply involves in QC/liaison of the export orders of the parent company. Liaison Office receives inward forex remittance through central bank approved bank account (received eqvt. Tk. 1,00,00,000/=) from French parent company to meet its expenditure. L.O. fully complies with withholding tax and VAT responsibility. Among others, it's a BOI and Bangladesh Bank approved entity and it has no local income, nor any commercial activity beyond those contained in the BOI permission and, therefore, there is no regulatory breach whatsoever. The Liaison Office is managed and controlled by parent company in France.

## ANALYSIS OF THE ISSUE

Inapplicability of section 18(2)(a) for Liaison Office by NBR circular confirms that there accrues or arises directly or indirectly no income to the Liaison Office. The inapplicability of Section 18(2)(a) and your continued complying the given conditions for a 'tax-exempt' status are central to emphasize. Your Liaison Office continues complying the conditions and obtained tax clearance on zero demand in the past years. L.O. is not an independent entity; it only works for parent company within the given conditions. There appears no scope of ALP tests in the remittance transactions from parent company. Chapter XIA of the Ordinance for TP has not been given a pervasive mandate over other sections of the same Ordinance.

Bangladesh & France have DTAA. Liaison Office only involves in QC, inspection and liaison of parent company orders. In other words, it also does not constitute to be Permanent Establishment (PE). Chapter XIA for TP defines PE separately. If conflicting, assessee is entitled to the benefit of the better one, i.e., DTAA override would prevail. An entity, not being a resident and not being a PE, does not attract outright taxation unless specific taxable income arises in Bangladesh. French Liaison Office does not have any specific income in Bangladesh to be taxed as a non-resident and non-PE, besides inapplicability of section 18(2)(a).

The remittance of taka 1,00,00,000/= between Liaison Office and French parent company, two being non-residents, are the international transactions u/s 107A(5).

Liaison Office income tax return filing is not waived up in the NBR circular. So, on the same count, the 'Statement of International Transactions' u/s 107EE, which is to be accompanied by the annual Tax Return as it is not waived up for the Liaison Office. The ordinary assessment proceedings shall take place and finally the Liaison Office is supposed to obtain tax clearance on zero demand.

## OPINION ON THE ISSUE AND RECOMMENDATION

With the above-mentioned understanding, assumptions and analysis, we opine that:

French Liaison Office is an Associated Enterprise (AE) u/s 107A(2) in relation to its parent company.

Inward remittance of Bdt 1,00,00,000/= constitutes international transactions between the Liaison Office and parent company. Remittance is a transaction between two non-residents. Liaison Office annual tax return should accompany Statement of International Transactions u/s 107EE at the format given at Rule 75A.



Although the French Liaison Office is an AE and it has international transactions with its parent company, there is no tax exposure under TP regulations. Its status as non-resident and non-PE status and, overall, the inapplicability of section 18(2)(a) under NBR Circular does not pose LO to tax. Continue maintaining complete compliance of the NBR conditions, BoI permission conditions, Central Bank permission conditions and TDS and VAT withholding compliance consistently.

Hope, our above opinion shall be useful to yourself and to your French management. Thank you very much for your interest in our service.

Thank you very much for your assistance,

Sd/=

### **Answer to Question No. 3(c)**

Question is whether DCT's view of taxing Ms. Tania in Bangladesh from 16.01.15 to 30.06.15 under the head salary which she received partly in France and partly in Bangladesh.

Ms. Tania arrived/joined Bangladesh Liaison Office of the French company on 16.01.2015. She is, therefore, non-resident for tax purpose in the relevant income period under assessment year 2015-16, as she resides less than 182 days in Bangladesh and she came first time on 16/01/2015 in 5 years. So she will have to pay tax on Bangladesh income only. Salary income from 16/01/2015 to 30/6/2015 is taxable in Bangladesh as per section 18(1) of ITO, 1984 where it was clearly stated that in case of non-resident salary income will be taxed in Bangladesh, wherever paid, if it is earned in Bangladesh.

So in our opinion DCT's action was correct. Ms. Tania should pay balance tax immediately.

### **Question No. 4.**

Three persons, as follows, are in the process of starting new business and approach you for advice under Value Added Tax Act 1991 considering the current provisions in force:

- i) A Chartered Accountant is obtaining 'Certificate of Practice' from ICAB to begin professional practice in accounting and auditing with an estimated annual fee income of Tk.7,500,000/=.
- ii) A retired Biman Airlines Manager in the process of setting up a Tour Operator business. Estimated annual commission income is Tk.6,500,000/=.
- iii) XYZ Ltd., a private limited company, operating from Kaptan Bazar, Dhaka, and already a VAT-registered assessee, engaged in product distribution got a new national distributorship agreement from a Chinese Manufacturer to import, stock and sell mobile handset in Bangladesh. Estimated annual turnover of XYZ Ltd. from new handset dealership is Tk.25,000,000/=. Company plans to appoint District Distributors (DD) to sell mobile handsets through selected retailers in major cities.



## Requirements:

- a) Please brief on the three persons shown in (i), (ii), (iii) above in connection with the compliance under VAT law considering the provision now in force with respect to initial compliance obligation and statutory VAT records. Examiner shall take into account mention of Codes, prescribed VAT Forms, Records and Sections/Rules. 7
- b) XYZ Ltd., the company in (iii) above requires additional advice on the formulation of the handset price at various stages using the system of 'input VAT rebate claims' at each stages of delivery chain u/s 9 of the law. Please make detailed computation of the PRICE in each stage upto MRP(Price to Distributor, Price to Retailer and MRP) clearly showing input-output VAT adjustment and net VAT payable amount in each stage of National Distributor(ND) and District Distributor. Your answer should also contain a reconciliation of the 'VAT (15%) on cost to retail' and summation of the VAT at earlier stages beginning from the import.
- [ASSUME: Per unit landed cost of XYZ Ltd is Tk.5,500/= including import stage VAT (15%=650/=), AIT (5%=165/=) and Advance Trade VAT (4%=220/=). ND margin 15% on Landed cost, Trade Promotion expense, estimated damage recovery total 14.0% on 'value after ND margin'; DD margin 5% and Retailer margin 15%.] 7
- c) XYZ Ltd., the company in (iii) above may soon run out of space at the present rented premises upon addition of new set of employees for handset dealership. The company has own bigger floor space in Uttara, Dhaka. Management is considering option of moving from current rented space from Kaptan Bazar to own space in Uttara, two being separate VAT divisions. Please advise Company on steps within the purview of VAT law (mentioning Section, Rule and prescribed Form) if the company decides to change office/store to Uttara. 6

## Answer to Question No. 4(a)

Three different parties shall have following compliance obligation, statutory records and reporting:

### (i) Chartered Accountants Firm :

#### a) VAT Registration

Initial compliance obligation is VAT registration under service Code S034 using Form VAT-6. Obtain VAT registration certificate (VAT-8). Although it may appear that the firm will not be required to obtain VAT registration certificate rather will be required to obtain turnover tax registration since their estimated annual turnover is less than the threshold i.e., Tk 80 lacs, as per the SRO# 641 of 2012, the firm must apply for the VAT registration irrespective of its annual turnover.

#### b) VAT payment

In most of the case the payer is responsible for deduction of VAT at source at the time of making payment to the CA firm. The firm will be required to collect Mushak-12 (Kha) from the payer. VAT paid to the firm must be deposited to the Government Exchequer before submission of the VAT return. VAT withheld from the service provider should also be deposited to the government exchequer.



**c) VAT return**

VAT return (Mushak-19) must be filed to the respective circle within 15<sup>th</sup> day of the next month.

**d) VAT record keeping**

VAT-11, VAT-19, VAT-12 Kha, Treasury Challan, etc

**(ii) Tour Operator:**

**a) TOT Registration**

Since annual turnover is less than Tk 8,000,000, the retired airline manager is required to obtain Turnover tax registration by using VAT-6 and then obtain VAT-08 for TOT registration. Service Code will be S077

**b) TOT payment**

TOT is payable @ 3% on the basis of declaration made under the VAT-2. He can pay the TOT on monthly, quarterly or annual basis.

**c) TOT Return**

TOT return i.e., VAT-4 is required to be submitted as the declaration made under the VAT-2 i.e., monthly, quarterly or annual basis

**d) TOT record Keeping**

TOT records are VAT-17Ka, Serial wise Sales Receipts book. TOT return (VAT-4) monthly or quarterly. Other related documents to support information in the statutory records.

**XYZ Ltd:**

**a) VAT Registration**

XYZ is already a VAT registered person. Their type may be trader. However, we need to review the VAT registration certificate as to whether their types also includes "importer" or not. If not then XYZ will be required to amend the VAT registration to include importer in their VAT registration.

**b) Price declaration**

If the deemed value addition is 26.67%, XYZ will not be required to submit price declaration, otherwise they will be required to submit price declaration through Mushak-1 Kha.

**c) VAT payment**

VAT is payable @ 15%. If the Value addition is 26.67%, XYZ will not be required to pay any VAT at the time of selling goods to their customer since 4% ATV has already been deposited to the Government Exchequer at the time of importation of the mobile handset.

If XYZ follows price declaration basis, they will be required to pay VAT on the value addition at the time of selling goods to their customer @ 15% on value addition.



d) VAT return

VAT return (Mushak-19) must be filed to the respective circle within 15<sup>th</sup> day of the next month.

e) VAT record keeping

VAT records (as existing) are VAT-16, 17, 18. VAT-11 or 11Ka or 11Gha. VAT return-19. Other related documents to support information in the statutory records.

**Answer to Question No. 4(b)**

Following is the price formulation and the mechanism of input VAT rebate claim and net output vat payment by XYZ Ltd at various stages (amount rounded off):

	Taka	VAT at each stage	Net VAT	Explanation
VAT at import stage(15%)	<u>650.00</u>	<u>650</u>	650	
AIT(Advance Income Tax)	<u>165.00</u>			
ATV(Advance Trade VAT) 4%	<u>220.00</u>	<u>220</u>	220	
Landed Cost per unit (excl. VAT+AIT+ATV)	4,465.00			<u>No VAT on VAT+AIT</u>
National Distributor Margin(15%)	<u>669.75</u>			
Value After ND Margin	5,134.75			
Trade Prom+Damage recovery(14.0%)	<u>718.87</u>			
ND Price before VAT	5,853.62			
VAT at 15% at ND Stage	<u>878.04</u>	<u>878.04</u>	8.04	<u>878.04 less(650+220)</u>
ND Price to District Dist(DD)	6,731.66			
DD Margin – 5%	<u>336.58</u>			
DD Price before VAT	7,068.24			
VAT at 15% at DD stage	<u>1,060.24</u>	<u>1,060.24</u>	<u>182.20</u>	<u>1052.24 less 878.04</u>
Price to Retail	8,128.47			
Retailer margin – 15%	<u>1,219.27</u>			
CONSUMER PRICE PER UNIT	<u>9,347.74</u>			<u>8128.47x3/23=1060.24</u>

**Answer to Question No. 4(c)**

Rules 12 of the VAT Rule 1991 provides for formalities as to the change of business location and situation. This is, however, not for ownership change. Application for 'change' of business location and nature should be done



14 days prior to the change. All pending VAT must be paid off before the application or an undertaking on stamp paper to settle the VAT or other liabilities with the VAT law. Any work stoppage at the present location must be informed to the respective VAT circle. Physical change of the location and transfer of the stock-in-trade should not be done without clearance from present VAT circle. Steps to be taken are as follows:

- Application for change of location in Form VAT-9 to present VAT Circle.

[Together with the attested copies of Trade License, Lease Agreement, NID, original VAT registration certificate, application in plain paper, copies of previous four months' VAT Returns.]

- VAT inspector shall visit the location to inspect stock-in-trade/other information of the XYZ Ltd.
- Information of such change and a copy of the application for change should also be filed with the new VAT circle under new VAT division (as the change to a separate division, Uttara).
- After scrutiny and satisfaction, present VAT circle shall cause to transfer the VAT file of the assessee to the new VAT Circle.

A new VAT registration is required to be obtained from the new transferee VAT division. -----



## TAXATION-II

May-June 2016

### Question No. 1

- (a) You have been invited by the organizers of a seminar to deliver lecture on the responsibilities of a Chartered Accountant rendering professional tax services. The organizers of the seminar informed you about the average understanding level of the participants. According to the organizers, the participants might have perception that a Chartered Accountant rendering professional tax services is obliged to act absolutely in the interest of his/her client/employer.

#### **Requirements:**

Prepare handouts addressing the following issues for distribution at the seminar to be held next month:

- i) Responsibilities of a practicing Chartered Accountant to the public while rendering tax advisory services. 5
- (ii) Guidance for a Chartered Accountant, working in the tax department of a company, on conflict of loyalties. 5
- (b) Mr. Shin, Chief Financial Officer (CFO) of Technoworld Inc., a Singapore based IT Company has appointed you as tax consultant and sought your opinion on the areas of tax planning so as to prepare an effective business plan.

Technoworld wants to expand its business in Bangladesh by providing IT based solutions in many industries along with BPO services. It wants to set up a liaison office. But it has been advised by Board of Investment (BOI) to incorporate a company in Bangladesh with 100% equity ownership to run the business.

In the first year, it has a plan of selling BDT 1Bn of IT and BDT 500 Mn of BPO services with 10% increment in each of the following two years. If the service charges are remitted from Bangladesh, the purchaser will deduct 20% withholding tax of it and 15% VAT will be borne by the service recipient.

Technoworld achieves 20% income before tax on net proceeds and has 25% corporate tax rate in Singapore. If it incorporates a company in Bangladesh, the services it will deliver will fall under ITES (information technology enable services) and in accordance of business plan it will achieve 30% income before tax. Under double taxation avoidance agreement, dividend from Bangladesh to Singapore is subject to maximum 15% tax withholding.

#### **Requirement:**

Give your opinion to Technoworld elaborating the aspects of the above mentioned options with demonstrating financial impact. 10

#### **Answer to the question No. 1 (a):**

- (a) Responsibilities of a practicing Chartered Accountant to the public while rendering tax advisory services**

A distinguishing mark of a profession is acceptance of its responsibility to the public. Here public means clients, credit grantors, governments, employers, employees, investors, shareholders, the business community, and others who rely on the objectivity and integrity of professional accountants to maintain the orderly functioning of commerce.



This reliance imposes a public interest responsibility on the accountancy profession. The public interest is defined as the collective well-being of the community as a whole and institutions the professional accountant serves.

Professional accountants have an important role in society, Investors, creditors, employers and other sectors of the business community, as well as the government and the public at large rely on professional accountants for sound financial accounting and reporting, effective financial management and competent advice on a variety of business and taxation matters. The attitude and behavior of professional accountants in providing such services have an impact on the economic well-being of their community and the country.

It is in the best interest of the worldwide accountancy profession to make known to users of the services provided by professional accountants that they are executed at the highest level of performance and in accordance with ethical requirements that strive to ensure such performance. Tax experts help to establish confidence and efficiency in the fair application of the tax system. A professional accountant's responsibility is not exclusively to satisfy the needs of an individual client or employer. The standards of the accountancy profession are heavily determined by the public interest. As such, a Chartered Accountant in practice, who advises on tax matters, also bears significant responsibilities to the public.

**(b) Guidance for a Chartered Accountant, working in the tax department of a company, on conflict of loyalties**

Employed professional accountants owe a duty of loyalty to their employer as well as to their profession and there may be times when the two are in conflict. An employee's normal priority should be to support his or her organization's legitimate and ethical objectives and the rules and procedures drawn up in support of them. However, an employee cannot legitimately be required to:

- (a) Break the law;
- (b) Breach the rules and standards of their profession;
- (c) Lie to or mislead (including misleading by keeping silent) those acting as auditors of the employer; or
- (d) Put their name to or otherwise be associated with a statement which materially misrepresents the facts.

Differences in view about the correct judgment on accounting or ethical matters should normally be raised and resolved within the employee's organization, initially with the employee's immediate superior and possibly thereafter, where disagreement about a significant ethical issue remains, with higher levels of management or non-executive directors.

If employed accountants cannot resolve any material issue involving a conflict between their employers and their professional requirements they may, after exhausting all other relevant possibilities, have no other recourse but to consider resignation. Employees should state their reasons for doing so to the employer but their duty of confidentiality normally precludes them from communicating the issue to others (unless legally or professionally required to do so).



**Answer to the Question No. 1(b):**

Mr. Shin,  
Chief Financial Officer (CFO)  
Technoworld Inc.

Subject: Opinion regarding tax planning and techniques

Dear Sir,

We refer your letter dated 15 April 2016 where you have narrated a plan of business with Bangladesh and requested us to provide our opinion on the areas of tax planning which will enable you to prepare an effective business plan. We are submitting the following analysis and suggestions which will curtail the tax burden for your prospective business complying the tax legislations presently enforced in Bangladesh.

Technoworld wants to expand its business in Bangladesh by providing IT based solutions in many industries along with BPO services. Initially it wants to set up a liaison office. It has been advised by Board of Investment (BOI) to incorporate a company in Bangladesh with 100% equity ownership to run the business. Hence, there are two options in hands, namely, selling services from abroad where liaison office will play a coordination roles and setting a local fully owned subsidiary of Technoworld to deliver the services to Bangladeshi customers locally.

**Relevant tax regulations in Bangladesh:**

- (a) As per para 33 of Sixth Schedule, Part A of Income Tax Ordinance (ITO), 1984 Information Technology Enable Services (ITES) has been exempted from income tax till 30th June, 2024.
- (b) Para 33 of Sixth Schedule, Part A of ITO 1984 states the definition of ITES as under:  
Information Technology Enabled Services (ITES) means-Digital Content Development and Management, Animation (both 2D and 3D), Geographic Information Services (GIS), IT Support and Software Maintenance Services, Web Site Services, Business Process Outsourcing, Data entry, Data Processing, Call Centre, Graphics Design (digital service), Search Engine Optimization, Web Listing, document conversion, imaging and archiving including digital archiving of physical records.
- (c) Under Finance Act 2015, the corporate tax rate of a non-listed company is 35%.
- (d) Under section 54 of ITO 1984, the tax deduction rate on payment of dividend is 20%
- (e) Based on article 24 of Double Taxation Avoidance Treaty between Singapore and Bangladesh, Tax deducted at source in Bangladesh will be eligible to take credit in Singapore to the extent of tax computed on the same income.
- (f) As per sec 56 of ITO 1984, foreign remittance on account of IT solutions and BPO related services to a non-resident Bangladeshi is subject to deduction of tax at source @ 20% under the category of Technical service fees or Technical knowhow fees.
- (g) Under VAT Act 1991, for the import of services, service recipient will be responsible to pay VAT and will be eligible for input VAT credit against the treasury challan of the deposit of VAT.

**Analysis of tax legislations applicable for Technoworld:**

Technoworld has two alternatives for doing business here in Bangladesh. It can sell services from abroad where liaison office will play a coordination role or set a local fully owned subsidiary of Technoworld Singapore to deliver the services to Bangladeshi customers locally.

From the perspective of tax laws, if it sells services to Bangladesh from Singapore, it will receive the proceeds in Singapore, which will be remitted by the service recipients in Bangladesh. This remittance



will be subject to withholding tax @ 20% as per ITO, 1984 after which the net proceeds will be remitted to Technoworld from Bangladesh. In Singapore, Technoworld will be eligible to take the credit of tax deducted at source in Bangladesh. VAT will be borne by the service recipient and will be eligible for input VAT credit. It will incur cost neither to Technoworld nor to the service recipients in Bangladesh.

If Technoworld Singapore sets a local fully owned subsidiary in Bangladesh, it will be subject to 35% corporate tax rate. Moreover, in accordance with double taxation avoidance treaty between Singapore and Bangladesh, the payment of dividend from Bangladesh is subject to 15% tax withholding in Bangladesh which we can assume will be available for full foreign tax credit by Technoworld in Singapore.

#### Outcome in Business plan after tax impacts:

Technoworld sells services to Bangladesh from Singapore				
		Year 1	Year 2	Year 3
Gross proceeds	A	1,500,000,000	1,650,000,000	1,815,000,000
Tax deduction at source in BD @ 20%	B	300,000,000	330,000,000	363,000,000
Remittance i.e. Net proceeds	C=A-B	1,200,000,000	1,320,000,000	1,452,000,000
Income before tax (20% on net proceeds)	D	240,000,000	264,000,000	290,000,000
Corporate tax (25%)	E	60,000,000	66,000,000	72,500,000
Credit on corporate tax on business from BD under DTAA	F	60,000,000	66,000,000	72,500,000
Net profit after tax for Technoworld	D-E+F	240,000,000	264,000,000	290,000,000
Technoworld sets a fully owned subsidiary in Bangladesh				
		Year 1	Year 2	Year 3
Gross proceeds	A	1,500,000,000	1,650,000,000	1,815,000,000
Income before tax (30% on Gross proceeds)	B	450,000,000	495,000,000	544,500,000
Corporate tax rate in BD (35%)	C	157,500,000	173,250,000	190,575,000
Income after tax / Gross dividend income of Technoworld	D=B-C	292,500,000	321,750,000	353,925,000
Withholding tax on dividend (15%)	E	43,875,000	48,262,500	53,088,750
Net remittance of dividend to Technoworld	F=D-E	248,625,000	273,487,500	300,836,250
Corporate tax of Technoworld (25%) on dividend	G=25% D	73,125,000	80,437,500	88,481,250
Withholding tax credit on dividend taken by Technoworld under DTAA	H=E	43,875,000	48,262,500	53,088,750
Additional tax in Singapore	I=G-H	29,250,000	32,175,000	35,392,500
Net profit after tax for Technoworld	J=F-I	219,375,000	241,312,500	265,443,750

#### Suggestions:

From the above table of business plan analysis it is found that, for the first three years in Singapore Technoworld will earn Tk. 794,000,000 if it sells services from Singapore to Bangladesh and Tk. 726,131,250 if it sets a fully owned subsidiary in Bangladesh.

Hence, after putting the taxation impacts, considering the change in financial of Technoworld, Singapore, you should opt to provide services from abroad and take the net proceeds from Bangladesh.

Thank you very much for taking us to your confidence. Should you require any clarification, please do not hesitate to contact us.

Thanking you,



## **Question No. 2**

You are a Chartered Accountant in practice and have expertise in income tax matters. Mr. A is your client and a director of XYZ Ltd. ("Company"). He has provided you with the following information and requested to consider each case separately:

- (a) The Client is interested to do his own tax planning for the income year 2015-2016 on the basis of following forecasted information and considering the provisions of prevailing tax laws:

Particulars	Tk.
Gross interest income from savings instruments (taxable)	300,000
Tax deduction at Source @ 5% from interest income	15,000
Income from house property (taxable)	180,000
Income from salary (taxable)	400,000
Investment eligible for tax rebate	100,000

### **Requirements:**

Provide the Client with the information about his taxable income, investment allowance, net tax payable and suggest him whether he should invest in savings instruments. 7

- (b) The Client is planning to buy a residential flat of 500 square meter (sqm) located at Gulshan along with 0.50 katha share of land from a real estate company. The total purchase price of the flat is Tk. 5,750,000, which is sum of land value of Tk. 2,000,000 and flat value of Tk. 3,750,000.

### **Requirements:**

- (i) Advise the Client about the amount of tax to be collected at source by the registering officer under section 53H of the ITO, 1984 and rule 17II of the ITR, 1984; 3
- (ii) Discuss the provision of tax law as regards the person from whom they said tax is supposed to be collected. 2

- (c) The Client provided you with the following information on income year 2014-2015:

Particulars	Tk.
Taxable income from business	500,000
Taxable income from house property	600,000
Taxable income from other sources	350,000

He has also informed that income from house property was derived from a residential flat owned by him and the amount of house rent was not deposited in his bank account.

### **Requirements:**

Compute the amount of penalty to be imposed under section 123 of the ITO, 1984, for non-compliance with rule 8A of the ITR, 1984. 3

## **Answer to the Question No. 2 (a):**

The required information are provided below on the basis of forecasted information relating to income year 2015-2016 applying provisions of tax laws applicable for AY 2015-2016:

**Name of Assessee: Mr. A**

**Taxpayer's Identification Number : xxxxxxxxxxxx**

**Statement of Forecasted Income during the income year ended on 30 June 2016**



Particulars	Taxable Income (Taka)	Tax (Taka)
1. Salaries: u/s 21	400,000	
2. Interest on securities: u/s 22 (gross interest on savings instruments)	300,000	
3. Income from house property: u/s 24	180,000	
4. Total income: (1+2+3)	880,000	
5. Tax leviable on total income (Note 2)		48,000
6. Tax rebate: u/s 44(2)(b)		15,000
7. Tax payable (difference between serial no. 5 and 6)		33,000
8. Tax Payments (tax deducted from interest on savings instruments)		15,000
9. Net tax payable (difference between serial no. 8 and 9)		18,000

**Note 1:**

Tax deduction at source from the interest on savings instruments shall be deemed to be the final discharge of tax liability from that particular source as per amendment made to the provisions of section 82C through the Finance Act, 2015

**Note 2:**

**Taxable Income excluding interest on savings instrument**

**580,000**

**Tax on Taxable Income excluding interest on savings instruments:**

Slabs/Particulars	Taxable Income (Tk.)	Rate	Tax (Tk.)
First	250,000	0%	-
Next	330,000	10%	33,000
(a) Tax payable on taxable income excluding interest on savings instruments			<b>33,000</b>
(b) Tax @ 5% on interest on savings instruments (final tax liability)			<b>15,000</b>
(a+b) Total tax payable (including final settlement of tax liability)			<b>48,000</b>

**Investment Allowance & Tax rebate:**

	Tk.
(a) Actual Investment made during the income year:	100,000
(b) 30% of (Total Taxable Income - Employer's Contribution to RPF-Income u/s 82C)	174,000
(c) Maximum Limit	15,000,000
(d) Allowable Investment limit for Tax rebate - the lowest of (a), (b) and (c)	100,000
Tax rebate [(d) X 15%]	<b>15,000</b>

**Suggestion to him whether he should invest in savings instruments.**

Maximum eligible amount for getting tax rebate Tk. 1,74,000 whereas he has only allowable investment Tk.1,00,000. That means he should invest Tk.74,000 more at savings certificate to get maximum tax rebate facility. If he buy it within 30<sup>th</sup> June,2016 then he will get extra Tk.74,000x15%=11,100 tax rebate.



**Answer to the Question No. 2 (b)(i):**

The computation of tax to be collected at source by the registering officer responsible for registering any document of a person has been computed below:

Particulars	Quantity	Deed Value (Tk.)	Rate	Amount (Tk.)	Tax Payable (Tk.)	Remarks
Land	0.50 Katha	2,000,000	4% of deed value	80,000	150,000	Whichever is higher
			Tk. 300,000/Katha	150,000		
Flat	500 sqm	3,750,000	4% of deed value	150,000	300,000	Whichever is higher
			Tk. 600/sqm	300,000		
Total tax to be collected at source by the registering officer					450,000	

**Answer to the Question No. 2 (b)(ii):**

As per section 53H of the ITO, 1984, and rule 17II of the ITR, 1984, tax on transfer of property shall be collected from the person whose right, title or interest is sought to be transferred, assigned, limited or extinguished thereby, at the time of registration of transfer document.

**Answer to the Question No. 2 (c):**

The required information is enumerated below:

**Name of Assessee: Mr. A**

**Taxpayer's Identification Number :xxxxxxxxxxxx**

**Income Year: 2014-2015**

**Assessment Year: 2015-2016**

**Income Tax Computation**

Particulars	Tk.
Taxable income from business	500,000
Taxable income from house property	600,000
Taxable income from other sources	350,000
<b>Total Taxable Income</b>	<b>1,450,000</b>

Slabs	Taxable Income (Tk.)	Rate	Tax (Tk.)
First	250,000	0%	-
Next	400,000	10%	40,000
Next	500,000	15%	75,000
Next	300,000	20%	60,000
<b>Total</b>	<b>1,450,000</b>		<b>175,000</b>

**Tax Leviable on total taxable income**

**A**

**175,000**

**Investment Allowance & Tax rebate:**

(a) Actual Investment made during the income year:

(b) 30% of (Total Taxable Income - Employer's Contribution to RPF - income u/s 82C)

(c) Maximum Limit

Tk.
-
435,000
15,000,000



(d) Allowable Investment Limit for Tax Credit - the lowest of (a), (b) and (c)

Tax rebate [(d) X 15%]	B	-
Income Tax Payable	C=A-B	<u>175,000</u>
Tax Payable on Income from House Property	$[175,000/1,450,000 \times 600,000]$	<u>72,414</u>
Penalty u/s 123 for not depositing house rent into bank account as per rule 8A of the ITR, 1984:		
50% of tax payable on income from house property	$[50\% \times 72,414]$	36,207
	or	
	Tk. 5,000	5,000
Whichever is higher		<u>36,207</u>
Total Tax Payable including Penalty		<u>211,207</u>

### Question No. 3

You are a Deputy Commissioner of Taxes (DCT) working in the income tax department of Bangladesh government. While carrying out your routine jobs, you came across with the following information in respect of various assesseees:

- Mr. A submitted return of income for AY 2015-2016 under section 82BB showing total taxable income of Tk. 1,000,000, investment of Tk. 200,000 eligible for investment allowance and tax rebate of Tk. 40,000 on the said investment.
- X Ltd. submitted income tax return for the assessment year 2007-2008 within the time stipulated in section 75 of the ITO, 1984, and assessment was completed long ago. In the assessment year 2015-2016, specific information about concealment of particulars of income of X Ltd. has come into your possession.
- Z Ltd. is engaged in production of woven garments and 100% of its products are exported to Europe. Return of income of Z Ltd. for the income year 2014-2015 has been submitted. Tax collected at source from the export proceeds of Z Ltd. was shown as final discharge of tax liability and was converted into taxable income applying 10% tax rate.
- Return of income submitted by Mr. B under Universal Self Assessment scheme of the ITO, 1984, for the AY 2013-2014, was selected for audit pursuant to section 82BB(3). Afterwards, proceeding under section 83 was initiated but not completed as of 30 June 2015.

### Requirement:

Express your thoughts and course of action as a DCT on the aforementioned issues referring to the specific provisions of tax laws.

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### Answer to the Question No 3:

- It appears from the information that tax rebate on admissible investment allowance claimed by Mr. A is not



**Name of Assessee: A**  
**Taxpayer's Identification Number :**  
**Income Year: 2014-2015**  
**Assessment Year: 2015-2016**  
**Income Tax Computation**

Particulars	Tk.
Taxable Income	1,000,000
<b>Total Taxable Income</b>	<b>1,000,000</b>

Slabs	Taxable Income (Tk.)	Rate	Tax (Tk.)
First	250,000	0%	-
Next	400,000	10%	40,000
Next	350,000	15%	52,500
<b>Total</b>	<b>1,000,000</b>		<b>92,500</b>

**Tax Leviable on total taxable income**

**A**

**92,500**

Investment Allowance & Tax Credit:

- (a) Actual Investment made during the income year:  
 (b) 30% of (Total Taxable Income - Employer's Contribution to RFP)  
 (c) Maximum Limit  
 (d) Allowable Investment Limit for Tax Credit - the lowest of (a), (b) and (c)

Tk.
200,000
300,000
15,000,000
200,000

Tax Credit [(d) X 15%]

**B**

**30,000**

Income Tax Payable

**C=A-B**

**62,500**

**Correct admissible investment allowance and tax rebate thereon will be computed in the following manner:**

The Assessee claimed tax rebate of Tk. 40,000 on admissible investment allowance, whereas he was entitled to Tk. 30,000 as computed above. As per section 82BB(2) of the ITO, 1984, the DCT shall make adjustment in respect of incorrect claim if the said incorrect claim is apparent from the existence of any information in the return. The tax payable shall be determined after adjustment of the incorrect claim of tax rebate on investment allowance. After processing the return in the aforesaid manner, the DCT shall send demand notice along with an intimation to the assessee specifying the income so computed, the liability to pay tax on such income, the amount of tax rebate allowed, the sum determined to be payable by him and such other particulars within 30 days of such computation as may be specified. Provided that no such intimation shall be sent after the expiry of a period of 12 months from the end of the financial year in which the return is furnished. Moreover, no demand notice requiring the assessee to pay more taxes shall be made unless the assessee is given an opportunity in writing in this regard.

- (ii) No proceeding under section 93 of the ITO, 1984, shall be initiated unless definite information has come into the possession of the DCT and he has obtained the previous approval of the IJCT in writing to do so, except in a case where a return has not been filed under section 75 or 77. A notice under section 93 of the ITO, 1984, may be issued by the DCT in any case in which he has reason to believe



that the assessee has for any assessment year concealed the particulars of his income or furnished inaccurate particulars thereof or omitted or failed to disclose all material facts necessary for the assessment for such year, within 6 years from the end of the assessment year for which the assessment is to be made.

In light of the above law, it emerges that the DCT has specific information into his possession and has sufficient reason to believe that X Ltd. concealed the particulars of income for the AY 2007-2008. As X Ltd. submitted return of income for the assessment year 2007-2008 within the time stipulated in section 75 of the ITO, 1984, commencement of proceeding and service of notice under section 93 will not be valid as 6 years has already passed from the end of the assessment year 2007-2008.

- (iii) As per section 53BB of the ITO, 1984, the bank, through which export proceeds of an exporter of certain items is received shall deduct tax at the rate 0.60% of the total export proceeds at the time of crediting the proceeds to the account of the exporter. Section 82C provides that tax deducted or collected at source under 53BB from the amount received on account of export of certain items shall be deemed to be the final discharge of tax liability from that source. Income from the sources referred to in section 82C is determined on the basis of the tax deducted or collected at source and the rate relating to the assessment year is applied.

Any income shown or assessed in excess of the amount determined in the aforementioned manner shall be liable to tax at the rate or rates applicable for the assessment year. In the case under discussion, Z Ltd. applied incorrect tax rate for deriving taxable income from tax collected at source through back calculation. The SRO, which introduced presumptive tax rate of 10% for export income of readymade garments industry, was not renewed after 30 June 2014. Hence, in the case of a private limited company, tax will be computed for the export income earned by readymade garments industry from 01 July 2014 @ 35%. Excess amount of taxable income shall have to be determined comparing taxable income derived by applying 35% tax rate to tax collected at source and total income shown or assessed.

- (iv) As per section 82BB(3), National Board of Revenue (NBR) or any authority subordinate to NBR, if so authorized by NBR in this behalf, may select, in the manner to be determined by NBR, returns filed under Universal Self Assessment scheme and refer the returns so selected to the DCT for the purpose of audit and the DCT shall thereupon proceed, if so required, to make the assessment under section 83 or section 84, as the case may be.

Section 94 provides for limitation of time for assessment and as per the said section no order of assessment under section 82BB (3) shall be made after the expiry of 2 years from the end of the assessment year in which the income was first assessable. Accordingly, the assessment order shall have to be passed under section 82BB(3) within 30 June 2016.

#### Question No. 4

Mr. A. Quader works as Manager Finance in a reputed financing company. The following are the details of income of Mr. A. Quader for the year ended June 30, 2015.

##### (a) Salary Income:

Basic Salary - Tk. 35,000 p.m., Bonus – 2 months basic salary, House rent allowance – 40% of basic salary, Medical allowance – Tk. 2,500 p.m., Conveyance allowance – Tk. 3,000 p.m., Concessional passage within Bangladesh – Tk. 1,30,000, Subscription to RPF – 10% (Employer's contribution is also the same), Interest accrued Tk. 85,000 on P.F. balance calculated @ 16% p.a.



**(b) Income from House Property:**

Mr. Quader has one residential house-one half of which is let out at a monthly rent of Tk. 12,000 and the other half is self-occupied. Following expenditures were incurred by Mr. Quader:

Municipal tax Tk.22,000; Repairs and maintenance Tk.55,000; Insurance premium Tk.16,000; Salary of caretaker Tk.36,000

**(c) Capital Gains:**

- i. Profit on sale of shares of MNC Ltd (A Private Ltd. Co.) Tk. 40,50,000
- ii. Sale of Shop (Deed Value Tk. 1,82,500), Original cost Tk. 30,750 and tax deducted at source at the time of registration Tk. 5,650 to be assessed u/s. 82C.
- iii. Profit on sale of shares of ERZ Ltd. Tk. 23,30,500 (A Publicly listed Co.)

**(d) Income from Land:**

Sale of paddy from land given on "Adhi" system – Tk.1,12,000. Sale proceeds from trees of spontaneous growth in Mr. Quader's land Tk. 12,000

**(e) Income from Business :**

Share of profit from a partnership firm Tk. 67,000

Business Income Tk. 70,000 (after allowing current year's depreciation Tk. 20,000)

The following sums have been brought forward from the preceding year:

- (1) Unabsorbed depreciation Tk. 80,000
- (2) Business loss Tk. 50,000

**(f) Interest income (Net @ 10% tax deduction at source):**

- (1) From Leasing Company Tk. 8,33,500
- (2) On Bank Fixed Deposit Tk. 1,25,250
- (3) On Bank Savings Account Tk. 55,700

**(g) Income from other Source:**

- (1) Dividend (gross) Tk.12,350
- (2) Income from shop rent Tk. 2,500 per month

During the year Mr. Quader made the following investments –

- (1) Life insurance premium Tk.65,000 (Policy Value Tk.500,000)
- (2) Investment in shares of a listed company Tk. 120,000
- (3) Donation to charitable institutions as approved by NBR Tk.33,000.

**Requirement:**

Compute Mr. Quader's total income and tax liability for the assessment year 2015-16



**Answer to the Question No. 4:****Name of the Assessee: Mr. A. Quader****Income Year: 2014-2015****Assessment year: 2015-2016****Computation Total Taxable Income**

	<u>Tk.</u>	<u>Tk.</u>	<u>Tk.</u>
<b>Income from salary : (u/s 21)</b>			
Basic salary (35,000 Tk. Per month)		420,000	
Bonus (2 months basic)		70,000	
House rent (40% of basic salary)	168,000		
Less: Exempted (lower of 50% of basic salary i.e. 210,000 Tk. or Tk. 300,000 or actual HR allowance)	168,000	-	
Medical allowance	30,000		
Less: Allowable up to 10% of basic salary or Tk.1,20,000 whichever is lower	30,000	-	
Conveyance allowance	36,000		
Less: Exempted up to	30,000	6,000	
Concessional passage within Bangladesh	130,000		
Less: Exempted as per rule 33G	130,000	-	
(Assumed that it is as per employment contract and actually sp			
Employer's contribution to RPF (10% of basic salary)		42,000	
Interest accrued on PF @16% p.a.	85,000		
Less: Exempted @ 14.5% p.a.	77,031	7,969	
(Para 25 of 6th Schedule, Part-A of ITO 1984)			
<b>Taxable income from salary</b>			<u>545,969</u>
<b>Income from house properties: (u/s 24,25)</b>			
Annual value (as it seems reasonable)	144,000		
Less: Admissible deductions			
Repair and maintenance (25% of annual value)	36,000		
Municipal tax (1/2 of Tk. 22,000)	11,000		
Insurance premium (1/2 of Tk. 16,000)	8,000	89,000	
Deemed income u/s 19(30): $91,000/2=45,500-36,000$		9,500	
Shop rent (as it seems reasonable)	30,000		
Less: Repair and maintenance (30% of annual value)	9,000		
Total income House property		<u>21,000</u>	119,500
<b>Income from agriculture: (u/s 26,27)</b>			
Sale of paddy on Adhi system	112,000		
(To be added direct as he did not cultivate)			<u>1,12,000</u>
<b>Income from business &amp; profession: (u/s 28,29,30)</b>			
Share of profit of partnership firm		67,000	
(assumed that firm's income is below taxable so partner will have to pay tax on this income at regular rate)			
Business income	70,000		
Less: Business loss b/f	50,000	20,000	
		<u>87,000</u>	
Less: Unabsorbed depreciation (from Tk.80,000)		20,000	
Total income from business			<u>67,000</u>



**Capital gain: (u/s 31,32)**

Profit on sale of shares of MNC Ltd (A Private Ltd. Co.)	4,050,000	
Profit on sale of shares of ERZ Ltd (Publicly listed Co.)	2,330,500	
Les: Exempted fully as per SRO no:196 date 30/6/15	2,330,500	
Actual Gain on sale of shop (1,82,500 -30750Tk.)		
Income as TDS Tk. 5,650 treated as income u/s 82 (c): (5,650Tk. X 100/15) assuming it was sold after 5 years.	37,667	
Capital Gain		40,87,667

**Income from other sources: (u/s 33,34)**

Interest from leasing company (gross, TDS @ 10%)	926,111	
Interest on Bank Fixed deposit (gross, TDS @ 10%)	140,278	
Interest from Bank saving account (gross, TDS @ 10%)	61,889	
Sale proceeds from trees	12,000	
Dividend income (gross) assumed from listed company	12,350	
Less: Exempted up to (Para 11A Part A, Sixth Schedule)	25,000	-
Total income from other sources		1,140,278
<b>Total Taxable Income</b>		<b>60,72,414</b>

**Computation of Investment Tax Rebate**

Employee's and Employer's contribution to RPF	84,000	
Life insurance premium actual Tk. 65,000 (allowed) maximum 10% of policy value Tk. 5,00,000)	50,000	
Investment in shares of listed companies	120,000	
Donation approved by NBR	33,000	
Total Investment		287,000

**Allowable limit of investment:**

Lower of -

30% of total income excluding employer's contribution to RPF and income u/s 82C Tk. (5,987,847 - 42,000-37,667) x 30%	17,97,825	
Actual investment	287,000	
Maximum limit	1,50,00,000	287,000

**Tax rebate on investment (15% of Tk. 287,000)****43,050****Computation of Tax Liability**

	Total income	Tax rate	Tax
First up to Tk. 2,50,000	250,000	0%	-
Next up to Tk. 4,00,000	400,000	10%	40,000
Next up to Tk. 5,00,000	500,000	15%	75,000
Next up to Tk. 6,00,000	600,000	20%	120,000
On balance Tk.2,34,747	2,34,747	25%	58,687
Total except Profit on sale of shares of MNC Ltd. (A Private Ltd. Co.) Tk. 4,050,000 and Adjustment for final settlement for sale of shop Tk. 37,667	19,84,747		2,93,687
Less: Adjustment for Final settlement u/s 82C	37,667	15%	5,650
Add: Tax on Capital Gain on sale of shares of MNC Ltd. (A Private Ltd. Co.)	4,050,000	15%	607,500
<b>Gross tax liability</b>	60,72,414		9,06,837
Less: Tax rebate on investment (15% of Tk. 287,000)		43,050	8,63,787



Less: TDS

(1) From sale of land u/s 82C	5,650
(2) TDS from Interest from leasing company	92,611
(3) TDS on Interest on Bank Fixed deposit	14,028
(4) TDS on Interest on Bank Savings account	6,189
Total	1,18,478
<b>Net tax payable u/s 74</b>	<b>7,45,309</b>

### Question No. 5

The following notes to the accounts pertaining to related party disclosures have been extracted from annual report of 2015 of MNC Ltd., a large FMCG manufacturing company of Bangladesh, where all the related parties are situated abroad except Bangladesh Prime Financing Ltd:

#### Related party

#### Transactions during the Year

Name of related parties	Nature	Nature of Transactions	For y/e: 30 June 2014	For y/e: 30 June 2015
			Taka	Taka
Singapore Quality FMCG Inc	Shareholder	Dividend payment	10,000,000	11,000,000
		Trademark	100,000	100,000
Bangladesh Prime Financing Ltd.	Shareholder	Dividend payment	5,000,000	5,500,000
Prime Communications Solutions Ltd.	Associate	Purchase of IT service and software maintenance	1,200,000	1,100,000
Singapore Quality Consultancy PLC	Group entity	Management and professional service fee	200,000	200,000
		IT Support Cost	170,000	210,000
Singapore Civil PLC	Group entity	Engineering service fee	130,000	110,000
Singapore Machineries PLC	Group entity	Professional service fee	220,000	180,000
Singapore Asset Management Ltd.	Group entity	Asset management service fee	3,200,000	2,500,000

#### Receivables/(payables) with related parties

Name of related parties	Nature	Nature of Transactions	As at 30 June 2015	As at 30 June 2014
			Taka	Taka
Singapore Quality FMCG Inc	Shareholder	Accounts payable	(40,000)	(30,000)
		Accounts receivable	-	-
Prime Communications Solutions Ltd	Associate	Accounts payable	(260,000)	(117,000)
Singapore Quality Consultancy PLC	Group entity	Accounts receivable	65,000	33,000
		Accounts payable	(300,000)	(200,000)
Singapore Civil PLC	Group entity	Accounts receivable	112,000	320,000
		Accounts payable	(38,000)	(55,000)
Singapore Machineries PLC	Group entity	Accounts receivable	-	-
		Accounts payable	(54,000)	(21,000)
Singapore Asset Management	Group entity	Accounts receivable	-	-
		Accounts payable	(320,000)	(371,000)



**Requirement:**

Prepare Statement of International Transactions of MNC Ltd. for the assessment year 2015-16 in accordance of Section 107EE of the Income Tax Ordinance, 1984 and Rule 75A of the Income Tax Rules 1984.

- (b) Since MNC Ltd. regularly incurs a handful number of transactions with foreign related parties for the purpose of its business, they want professional advice with regard to agreement with PE and related information and documentation. Draft a letter in reply of the request to CFO, Mr. A. Kibria seeking your advice on factors to be included in agreement with AE and documentation to prepare to deal with the new provisions of Income Tax law relating to foreign transactions with associated enterprises.

**Answer to the Question No. 5 (a):****STATEMENT OF INTERNATIONAL TRANSACTIONS**

(Section 107EE of the Income Tax Ordinance, 1984 and Rule 75A of the Income Tax Rules, 1984)

**A. Particulars of the Assessee:**

1. Name of the Assessee:
2. TIN:
3. (a) Circle:
4. Assessment Year:
5. Income Year:

(b) Taxes Zone:

**B. Particulars of international transactions:****PART-I****Tangible property of revenue and capital nature transaction**

Item	Expense (Thousand Tk.)	TPM Code	%	Revenue (Thousand Tk.)	TPM Code	%
Stock in trade / raw materials	-	-	-	-	-	-
*Other (specify)	-	-	-	-	-	-

**Rent, royalties and intangible property related transaction**

Item	Expense (Thousand d Tk.)	TPM Code	%	Revenue (Thousand Tk.)	TPM Code	%
Rent	-	-	-	-	-	-
Royalties (for the use of patents, trademark etc.)	1,00,000	-	-	-	-	-
License of franchise fees	-	-	-	-	-	-
Intangible property or rights (acquired or disposed of)	-	-	-	-	-	-

**Services related transaction**



Item	Expense (Thousand Tk.)	TPM Code	%	Revenue (Thousand Tk.)	TPM Code	%
Treasury related services	-	-	-	-	-	-
Management and administrative services	200,000	-	-	-	-	-
Sales and marketing services	-	-	-	-	-	-
Research and development	-	-	-	-	-	-
Software and ICT services	1,370,000	-	-	-	-	-
Technical and engineering services	350,000	-	-	-	-	-
Commissions	-	-	-	-	-	-
Logistics	-	-	-	-	-	-
Asset management	3,200,000	-	-	-	-	-
*Other services (specify)	-	-	-	-	-	-

#### Financial transaction

Item	Expense (Thousand Tk.)	TPM Code	%	Revenue (Thousand Tk.)	TPM Code	%
Interest	-	-	-	-	-	-
Sale of financial assets (including factoring, securitization and securities)	-	-	-	-	-	-
Lease payments	-	-	-	-	-	-
Securities lending (fees and compensation payment)	-	-	-	-	-	-
Insurance and reinsurance	-	-	-	-	-	-
Guarantees	-	-	-	-	-	-
*Other financial services (specify)	-	-	-	-	-	-

Any other international transaction of revenue nature not reported above:

Item	Expense (Thousand Tk.)	TPM Code	%	Revenue (Thousand Tk.)	TPM Code	%
	-			-	-	-
<b>Total of PART-I</b>	<b>5,220,000</b>					

#### PART-II

Interest bearing loans, advances and investments (figures in thousand taka)

Item	Opening Balance	Increase	Decrease	Closing balance
Amounts owed by the assessee	-		-	-
Amounts owed to the assessee	-	-	-	-

Interest-free loans, advances and investments (figures in thousand taka)



Item	Opening Balance	Increase	Decrease	Closing balance
Amounts owed by the assessee	-	-	-	-
Amounts owed to the assessee	-	-	-	-

**Current accounts and similar items (figures in thousand taka)**

Item	Opening Balance	Increase	Decrease	Closing balance
Amounts of accounts payable	739,000	170,000	-	909,000
Amounts of accounts receivable	265,000	-	191,000	74,000

I, -----, Designation Chief Financial Officer of MNC Ltd., solemnly declare that to the best of my knowledge and belief the information given in this form is correct and complete.

Place: Dhaka

Date :

Signature

(Name in Block Letters)

Designation and Seal

**Answer to the Question No. 5 (b):**

Date:

Mr. Mr. A. Kibria  
Chief Executive Officer  
MNC Ltd.

Subject: Requirements on entering agreement, pricing, information and documentation relating to foreign transactions with associated enterprises

Dear Sir,

Please refer to our meeting on 31 May 2016 at our office when you sought our guidelines on factors to be included in agreement with AE, information to be collected from AE and documentation to prepare to deal with the provisions of Income Tax laws relating to foreign transactions with associated enterprises. Considering our discussion, we are providing below necessary guidelines on aspects as stated above.

**Factors to be included in the agreement with AE:**

1. Description of services: Description of the exact nature of services to be rendered by the AE should be incorporated in the agreement. Such information may be detailed in a separate appendix to the agreement and updated annually if services are to be availed on an ongoing basis.
2. Initiation and expiry date: The effective date of agreement and the expiry date should be clearly mentioned. In case there is any change in nature of services or price, the same can be agreed by way of addendum to the agreement.



3. Roles and responsibilities of MNC Ltd. and AEs: The agreement should define the roles and responsibilities of each party including but not limited to provision of services by AEs, assurance that services meets the agreed standards, how will the services be requisitioned etc.

**Information to be collected from AE:**

The following information is required to be collected from AE and make it ready to deliver to the tax authority:

1. Financial statements of the AE, along with consolidate financial statement of the group.
2. Details of cost incurred by AE for rendering services
3. Details of cost allocated to MNC Ltd. along with the basis of cost allocation
4. Analysis undertaken to substantiate the arm's length nature of the mark up charged on services rendered.
5. Documents to substantiate those services have actually been received from AE.

**Documents for tax authority:**

The following documents should be maintained and presented for audit conducted by tax authority

1. Copy of the agreements entered into by MNC Ltd. with the AEs
2. Copy of the invoices
3. Documents evidencing receipt of services by MNC Ltd.
4. Documents evidencing benefits received from receipt of services from AEs
5. Documents evidencing that services rendered by AEs are not duplicative
6. Documents evidencing cost incurred by AEs for rendering of services

We expect that, our above guidelines shall suffice your queries so as to enable you to take necessary preparation on TP issues. Thank you very much for taking us to your confidence.

Sd/=

**Question No. 6**

- (a) Worldtel Ltd. is a fixed wireless phone service providing company. It provides services by selling fixed phone sets, connection cards and scratch cards to its customers. It has its registered head office, warehouse, seven own divisional sales centers and almost two hundred retail sales points throughout the country. The addresses are as below:

Head Office: Nafis Tower, 4th Floor, 12 Glushan, Dhaka

Warehouse: Plot no. 32, 14 Tejgaon, Dhaka

Divisional sales center: (1) Hosna Mansion, 13 Barishal; (2) Sami Heights, 67/A Agrabad Commercial Area, Chittagong; (3) Janata Bhaban, 18 KDA Commercial Area, Khulna; (4) Lotif Mansion, 56 Rani Bazar, RajshahiSadar, Rajshahi; (5) Hossain Plaza, 23 R K Road, Rangpur City, Rangpur; (6) Kushum Plaza, 117 Mirer Bazar, Moulovi Bazar, Sylhet; (7) Bilkis Tower, 155 Motijhil, Dhaka.

Worldtel Ltd. has been operating its business for last one year under one VAT registration with service code S 012.10 (Telephone) showing the address of its head office and depositing VAT to Government exchequer based on its sales through the sales centers and retailers. Recently it has received a letter issued by VAT authority stating that it has not complied with the appropriate registration of VAT and not having separate VAT registration for its each sales points in the country. CFO of Worldtel has appointed you to advise on the remedy to the above crisis.



**Requirement:**

Draft a letter to the CFO suggesting a workable solution in accordance with the relevant provisions of VAT law. 8

- (b) Delta Ice cream Ltd., a VAT registered entity, incurred the following transactions in March 2016. Raw materials aggregating to Tk.5,000,000 were purchased on 5 March 2016, VAT on the same paid and the VAT challan along with the goods were received on 10 March 2016. The deliveries are as follows:

8 March 2016	Tk. 13,00,000
9 March 2016	Tk. 12,00,000
10 March 2016	Tk. 15,00,000
15 March 2016	Tk. 16,00,000

The following deposits were made to the Govt. Exchequer through treasury challan :

7 March 2016	Tk. 1,20,000
12 March 2016	Tk. 1,30,000
15 March 2016	Tk. 1,70,000

Balance of deposit at 1 March 2016 in VAT – 18 was Tk.1,50,000

**Requirements:**

Write a letter to the management showing how the above transactions will be entered in VAT-18 of the company and on the irregularities (if any) noted by you in completing the VAT current register (VAT – 18) and implications of the same for the company.

- (c) As an Executive-VAT of the Delta Ice Cream Ltd., you have been provided with the following cases:

- An air-conditioned restaurant issued Mushak-11 to the Company wherein amount of VAT was Tk.5,000.
- Statutory audit was carried out by an audit and accounting firm which raised an invoice in its own format adding VAT of Tk.15,000 on to the audit fee.
- The Company is in receipt of a Mushak-11 issued by an insurance company against marine insurance policy showing VAT of Tk.10,000.
- Goods were purchased for Tk.100,000 from a manufacturer who issued Mushak-11 to the Company adding VAT of Tk.15,000 thereto.
- Mushak-11 was issued by a furniture show-room to the Company for sale of furniture showing VAT of Tk.3,000.

**Requirement:**

Provide your opinion on deduction or collection of VAT at source and claiming input VAT rebate in the cases stated above.

**Answer to the Question No. 6 (a):**

Date:

Chief Financial Officer (CFO)

Worldtel Ltd.

Nafis Tower, 4<sup>th</sup> Floor,

12 Gulshan, Dhaka



Subject: . Workable solution on VAT registration

Dear Sir,

This has reference to your recent communication requesting us to advise you on a workable solution with regard to the VAT registration of your company in the light of the letter issued by the VAT Authority.

Your company provides services by selling fixed phone sets, connection cards and scratch cards to your customers. Currently your company have got it's a registered head office, ware house, seven own divisional sales centers and almost two hundred retail sales points throughout the country. You have been operating your business for last one year under one VAT registration under service code S 012.10 (Telephone) being head office as registered address and depositing VAT to Government exchequer based on its sales through the sales centers and sales points.

Please note that as per sec 15 (2) of VAT Act 1991, there are two different means of getting registered for VAT. When an entity delivers service or goods from two or more than two places, it will be required to obtain VAT registration separately for each of the places and will be required to maintain all the books and records separately. Alternatively, if the entity delivers service or goods from two or more than two places and maintain all the books and records centrally for all the places altogether, it can apply for central VAT registration for all the places of delivery of goods or services.

In order to comply with the above provisions, your company is either required to obtain VAT registration for the warehouse, seven own divisional sales centers and almost two hundred retail sales points where *separate books and records would be maintained for each of those delivery points or apply for central VAT registration declaring your ware house as a central distribution point and maintain centralized books and records for the central delivery center.* For central VAT registration, your company will be required to comply with the conditions of central VAT registration stipulated in SRO 186 Ayn /2012/644 Mushak dated 7 June 2012. We would like to highlight a few major terms and conditions below:

- a) Application for central VAT registration should be submitted in the form of Mushak-6;
- b) VAT of all the issued products from central delivery center will be deposited in advance
- c) VAT of a month of all the delivery centers will be paid through one VAT return maintained centrally within 15<sup>th</sup> of the following month.
- d) VAT 11 will be issued at the time of delivery of goods from the centrally registered delivery center.
- e) Statement of delivery from the central delivery center and statements of delivery from every sales center have to be submitted to the local VAT authority within 15<sup>th</sup> of the following month.
- f) The books and records will be maintained in the centrally registered delivery center in accordance of sec 31 of VAT Act 1991 and rule 22 of VAT Rules 1991.

On the basis of what have been stated above, obtaining separate VAT registration for your warehouse, seven sales center and almost two hundred sales point around the country may not be workable for your company as you will have to employ people to maintain compliances for all of your registered office which is not at all cost effective. Hence we would recommend you to apply for central VAT registration, by declaring your warehouse as central delivery center which will ensure compliance as well as operating with the present cost structure for VAT operations.

Should you have any query, please feel free to contact us .

Thank you.

-----



**Answer to the Question No. 6 (b):**

Date:

Chief Financial Officer (CFO)

Delta Ice cream Ltd.

Address

Subject: Irregularities in compliance of rules 22 of VAT rules 1991 for maintaining VAT 18.

Dear Sir,

Please find below our findings with regard to compliance of rules 22 of VAT rules 1991 in your enterprise below:

Current Account (Rules 22 of VAT Rules 1991)

Tax payer's identification number

Name:

Address:

SL no.	Date	Particulars	Purchase or Sales register		Treasury Deposit	Rebate	Dues	Closing Balance	Remarks
1	2	3	4	5	6	7	8	9	10
1	01.03.2016	Opening balance						150,000	
2	07.03.2016	Treasury deposit			120,000			270,000	
3	08.03.2016	Delivery					195,000	75,000	
4	09.03.2016	Delivery					180,000	(105,000)	
5	10.03.2016	Purchase				750,000		645,000	
6	10.03.2016	Delivery					225,000	420,000	
7	12.03.2016	Treasury deposit			130,000			550,000	
8	15.03.2016	Treasury deposit			170,000			720,000	
9	15.03.2016	Delivery					240,000	480,000	

In accordance of Rule 22(1) Gha of Vat Rules 1991, maintenance of sufficient balance in VAT current account is required by which the adjustments or payments for output VAT can be made with the accumulated balance of VAT deposited and VAT rebate. We have gone through the VAT transactions of the period from 1 March to 15 March 2016 recorded in the current account and found negative balance in one occasion which is a clear violation of above rule. under section 32(2) of VAT Act 1991, it is also an offence which may cause a monetary penalty of an amount not less than half and more than two times of the amount of VAT. However, for irregularities other than evasion of revenue, the amount of fine is limited to not less than Tk. 5,000 and not more than Tk. 300,000.

We recommend strict compliance of VAT provisions by maintaining a positive balance in VAT 18.

Should you require further clarification on this, please do not hesitate to revert to us.

Thanking you.

**Answer to the Question No. 6 (c):**

- (i) An air-conditioned restaurant issued Mushak-11 to the Company wherein amount of VAT was Tk 5,000.



As per General Order No. 03/Mushak/2014 dated 05.06.2014, the services from which VAT is required to be deducted or collected at source do not include air-conditioned restaurant. Hence, VAT will not be required to be deducted at source from the said restaurant.

Pursuant to section 9 (1) of the VAT Act, 1991, VAT paid on purchase of services rendered by air-conditioned restaurant will not be eligible for claiming input VAT rebate considering it entertainment.

- (ii) Statutory audit was carried out by an audit and accounting firm which raised an invoice in its own format adding VAT of Tk. 15,000 on to the audit fee.

In accordance with General Order No. 03/Mushak/2014 dated 05.06.2014, VAT is required to be deducted or collected at source from audit and accounting firm.

As per Rule 19 of the VAT Rules, 1991, 80% of VAT paid on procurement of services rendered by audit and accounting firm will be eligible for claiming input VAT rebate. It is worth noting that invoice issued by an audit and accounting firm in its own format will be treated as VAT (Mushak) invoice provided the invoice fulfils conditions stipulated in Rule 17 of the VAT Rules, 1991

- (iii) The Company is in receipt of a Mushak-11 issued by an insurance company against marine insurance policy showing VAT of Tk. 10,000.

As per General Order No. 03/Mushak/2014 dated 05.06.2014, the services from which VAT is required to be deducted or collected at source do not include an insurance company. Hence, VAT will not be deducted at source from the company conducting insurance business.

In accordance with Rule 19 of the VAT Rules, 1991, claim for credit of input VAT paid on insurance premium is allowable up to 80% of VAT so paid.

- (iv) Goods were purchased for Tk. 100,000 from a manufacturer who issued Mushak-11 to the Company adding VAT of Tk. 15,000 thereto.

VAT will not be deducted at source if goods are supplied by a manufacturer issuing Mushak-11 upon payment of applicable VAT.

In accordance with section 9 of the VAT Act, 1991, there is no restriction on claiming credit for input VAT paid on purchase of goods from a manufacturer.

- (v) Mushak-11 was issued by a furniture show-room to the Company for sale of furniture showing VAT of Tk. 3,000.

As per General Order No. 03/Mushak/2014 dated 05.06.2014, VAT is required to be deducted at source from the sale of furniture by a show-room.

Pursuant to section 9 (1) of the VAT Act, 1991, VAT paid on purchase of furniture will not be eligible for claiming input VAT rebate.



## TAXATION II

Nov- Dec 2016

### Question No. 1

AR Ltd. (petitioner# 1) and BA Ltd. (petitioner# 2), being PLC (non-publicly traded), carrying on business as mobile phone operators, obtained court order for a horizontal amalgamation" **Exhibit 1** for further details on ownership structure and other briefs on scheme. As per approved amalgamation scheme, petitioner 2 (transferor, BA Ltd.) shall be amalgamated into petitioner# 1 (transferee, AR Ltd.) to enhance scale of operations and optimize resource utilization. Cut-off for both is Dec 31. Extracts:

#### AR Ltd.

#### **Comprehensive Statement of Income**

#### **For the year ended 31-12-2015**

	<u>BDT (In '000)</u>
Revenue	51,000,000
Cost of revenue	(29,000,000)
Admin expense	(4,000,000)
S&D expense	(6,000,000)
Operating expense	(4,000,000)
Profit from Ops	8,000,000
Net finance expense	(100,000)
Non-ops income	400,000
<b>Profit before tax</b>	<b><u>8,300,000</u></b>

#### BA Ltd.

#### **Comprehensive Statement of**

#### **for the year ended 31-12-2015**

	<u>BDT (In '000)</u>
Revenue	13,000,000
Depreciation (network)	(5,000,000)
Other Network Ops cost	(10,000,000)
<b>Gross Profit/ (Loss)</b>	<b><u>(2,000,000)</u></b>
Other Income, net	100,000
G&A expense	(2,000,000)
S&D expense	(2,000,000)
<b>Operating profit/ (loss)</b>	<b><u>(5,900,000)</u></b>
Finance income	50,000
Finance expense	(2,000,000)
Foreign exch. gain/ (loss)	(300,000)
<b>Profit/ (Loss) before tax</b>	<b><u>(8,150,000)</u></b>

Statement of Financial position (31-12-2015) reflect BA Ltd. (in 000) R/E (taka 60,000,000), equity (taka 14,000,000).

#### **Further Findings from the records of the income year of AR LTD.:**

- i) Operating expense includes Tk. 500,000 paid to a lawyer for services involved in acquisition of Khulna office.
- ii) Representative of 2 shareholding companies (AR (Pvt.) Ltd. and DNT) visited Dhaka when the talk of merger was brewed. Company paid Tk. 2,500,000 to Radisson on a/c of visitors, charged to admin expense.
- iii) Non-ops income includes amount after TDS Tk. 100,000 paid to a valuer for valuation of assets disposed.



- iv) Admin expense includes taka 150,000 interest levied for late filing of tax return and non-payment of advance tax.
- v) Net finance expense includes taka 500,000 paid as interest on a/c of a deferred payment scheme for acquiring imported cellular equipments which are already received and installed.
- vi) Cost of revenue includes accrual taka 5,000,000 BTRC annual license fee, without TDS, payment due by Jan/2016.
- vii) Operating expense includes taka 150,000 paid to a stationery goods supplier, without TDS.
- viii) Operating expense includes Tk. 500,000 paid to a vendor without deducting/paying VAT thereon.
- ix) Company missed to write-off a loss of taka 500,000/= on capital assets sold during the income year. An amount of depreciation taka 300,000/= was charged in income year on the same capital asset sold.

**Further findings from the records of the income year of BA Ltd.:**

- i) Finance expense includes Tk. 700,000/= interest on O/D taken to pay income tax when in cash strain.
- ii) Foreign exchange loss represents loss due to rate slump between time gap of approved foreign loan and receipt.
- iii) Company changed stock valuation method for mobile set stock. Auditor did not agree and qualified the report quantifying the resulting missed revenue Tk. 2,500,000.
- iv) Tk. 1,000,000 incurred for renovation of rented site offices in the country and charged to S&D expense.
- v) Included in G&A expense, fees Tk. 500,000 paid to auditor for valuation of fixed assets in connection with the preparation leading to primary meeting of the merger.
- vi) G&A expense includes taka 2,500,000 on a/c of transfer of overdue accumulated contribution to RPF (both employer and employee). Company could not transfer contribution timely for cash strain overriding the PF Rules.
- vii) Other network operating expense includes taka 500,000 forfeited advance paid for acquiring a new office floor.
- viii) Tk. 200,000 accrued as car rent from Car rental company reported under S&D expense, without TDS.
- ix) During the income year, company disposed of a capital asset for taka 2,500,000. Carrying value and the tax WDV (@ 10%) of the asset at disposal were taka 1,000,000 and taka 800,000 respectively. A new asset was purchased for taka 5,000,000 to replace the old asset in the same year. Depreciation on new asset was provided wrongly at 20%.
- x) G&A expense includes taka 1,000,000 for directors traveling to Singapore on a new business negotiation, lump sum payment of taka 1,000,000 as inducement to hunt a prospective employee from a competitor.
- xi) Fees taka 500,000 paid to a lawyer to increase authorized share capital before merger scheme.

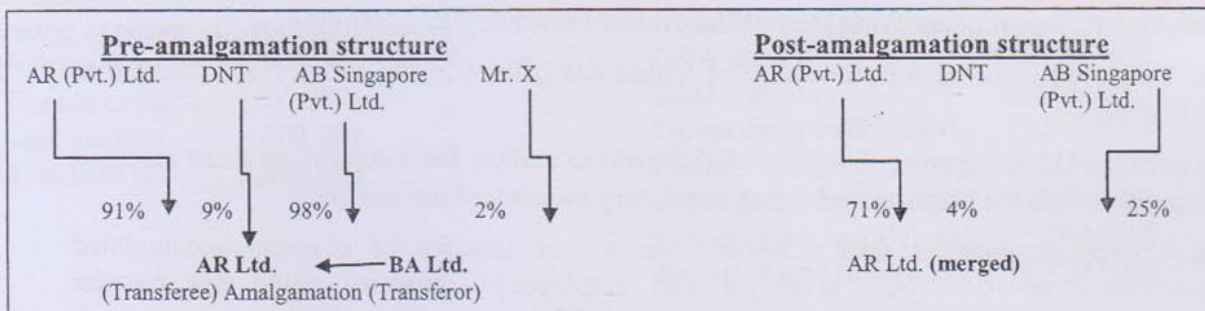


## Requirements:

- Calculate total income and tax payable of AR Ltd. for the income year ended 31.12.2015. Explanations/assumptions/relevant sections/case ref, if any, in support of your adjustments should be given. 8
- Calculate total income of BA Ltd. for income year ended 31.12.2015. Explanations / assumptions / relevant sections / case ref, if any, in support of your adjustments should be given. 7
- Consider relevant information above and in **Exhibit 2** relating to 'Slump Sale' of 'S' unit of BA Ltd. to MP Ltd. before the 'Effective Date' of amalgamation. Compute capital gain and tax liability on 'S' unit sale. 7
- Consider **Exhibit 1**. Write your views in the light of the I.T. Ordinance: (i) Whether difference shall attract tax if value of shares received from AR Ltd. by shareholders of BA Ltd. is more than the value of net assets of BA Ltd. amalgamated with AR Ltd. (ii) Whether AR Ltd. is entitled to carry forward losses/unabsorbed depreciation of BA Ltd. for set-off against taxable profit of the transferee after amalgamation. 4

### EXHIBIT 1 (In connection with Question No. 1)

Court approved a scheme of amalgamation under Companies Act 1994 between AR Ltd. (Petitioner 1) and BA Ltd. (Petitioner 2). Currently, AR Ltd. (Petitioner 1) is owned by a Singapore-based company, AR (Pvt.) Ltd. (91%) and a Korean company, DNT (9%). BA Ltd. (Petitioner 2) is owned by AB Singapore (Pvt.) Ltd. (98%) and Mr. X of UK (2%). Petitioner 2 (transferor) shall be merged into Petitioner 1 (transferee). Pre-merger and post-merger ownership structure are as follows:



### **Relevant two extracts from approved Amalgamation Scheme:**

- All Assets and liabilities of amalgamating company (Transferor) shall be vested on amalgamated company (Transferee). As part of capital reorganization, 1,300,000,000 Ordinary BDT 10 shares in transferee company shall be issued to shareholders of transferor; resulting 25% holding for transferor company's shareholders in transferee company's reorganized capital. Assume, shareholders of transferor company with >9/10th in value of shares in transferor company become shareholders of the amalgamated company. Difference of net assets of transferor company and value of agreed issue in transferee company to shareholders of the transferor company shall be transferred to Capital Reserve/Goodwill.



- ii) Transferee company shall be entitled to claim benefit of brought forward losses or/and unabsorbed depreciation, as admissible under the provisions of Income Tax Ordinance to the extent applicable, of the transferor company and to set off against the taxable profit of the transferee company after official amalgamation.

## XHIBIT 2

### **SIM Kitting service unit 'S' of BA Ltd.:**

BA Ltd. (transferor) has a small warehouse SIM kitting unit 'S' within its operation. Amalgamation deal agreed not to carry on such non-core operation with the merged entity and concluded that the deal steering committee would sell 'S' unit and the resulting tax, if any, shall be settled by transferee company. Within BA Ltd. Balance Sheet, assets and liabilities on a/c of 'S' unit are (BDT): Non-current liability 1,500,000, Fixed Assets 4,000,000 which includes 1,000 sft. Warehouse land space bought for BDT 1,000,000 in January 2013 (revalued BDT 1,500,000 in Jan/2014), furniture & fixture net 300,000 (gross 500,000), electrical appliance net 320,000 (gross 400,000) and balance is other fixed assets WDV. Current assets: Inventory of SIM and kitting materials BDT 250,000, Bank balance (150,000). Merger steering committee has done a slump sale deal (lock, stock & barrel) with MP Ltd. to sell Unit 'S' operations of BA Ltd. in April 2016 (before 'Effective Date' of Amalgamation). Consideration is BDT 5,000,000/=. 'S' unit capital assets are depreciated u/s 29(1) (viii). Committee paid a lawyer net-of-tax fee BDT 50,000 for deal advice.



Answer to Question No. 1(a)

Computation of total income and tax liability

AR Ltd.

Income year ended 31.12.2015. A/Y: 2016-17

	<u>BDT('000)</u>	<u>BDT('000)</u>
		8,300,000
Net profit before tax		
<b>ADD: Inadmissible expenses:</b>		
i) Lawyer payment for acquisition of Khulna office [Legal exp. is allowable exp. as per sec.29 of ITO, 1984]	----	----
ii) Payments to Radisson for Shareholders' reps [Allowable as the exp. is not personal, not capital rather related to business]	100	
iii) Payment to valuer of assets disposal [Payments linked to capital assets sold]	150	
iv) Interest for late return filing and default in advance tax payment [Any exp. for violation of law is not allowable exp.]	500	
v) Interest on assets acquired under deferred scheme [To be disallowed being capital exp.]	----	
vi) BTRC annual license fee [Cannot be disallowed on the ground that tax was not deducted as it would be deducted at the time of payment]	150	
vii) Stationery purchase through supply [To be disallowed u/s 30(aa) for non TDS]	----	
viii) Vendor payment without VAT deduction [Not to be disallowed u/s 30(aa) for non VDS wef the AY: 16-17]	300	
ix) Depreciation of sold assets [Depreciation not allowed in the year of disposal]		1,200
		<u>8,301,200</u>

Note:

There is no scope to consider loss on sale of assets Tk. 500,000 due to lack of information relating to written down value and sales price of assets already sold.

Tax calculation

Tax @ 45% (non-listed mobile phone Operator Company) == Tk.3,735,540 ('000)



Answer to Question No. 1(b)

Computation of total income and tax liability

BA Ltd

Income year ended 31.12.2015. A/Y: 2016-17

	<u>BDT('000)</u>	<u>BDT('000)</u>
Net profit before tax		(8,150,000)
<b>ADD: Inadmissible expenses:</b>		
i) Interest on O/D [In case of cash shortage, company can borrow money to run business including tax payment etc. As it is business related exp. so it is allowable. Tax is not allowable exp. but interest on loan to pay tax is allowable exp.]	----	
ii) Exchange loss [Bonafide and actual and as such allowable as per sec.29]	----	
iii) Missed revenue for stock valuation method change [Assumed that stock valuation method has been changed & recognized as per BAS]	----	
iv) Renovation of site office [To be added as it is capital exp.]	1,000	
v) Valuation fee paid to auditor in connection with merger [Not connected with day to day business of the company]	500	
vi) RPF overdue contribution payment [Action of overdue payment lies under separate PF Rules, Actual amount whenever paid is admissible]	----	
vii) Forfeited advance for cancellation of agreement [Not to be allowed as business exp. as it was incurred for violation of terms and conditions]	500	
viii) Car rent payment accrued [To be allowed as business exp. because tax to be deducted at the time of payment not on the basis of accrual]	----	
ix) Depreciation on new asset [Dep. Claimed Tk.50,00,000 x 20% = 10,00,000. Assumed that purchased price of the old machine was Tk.20,00,000 (as it was not given in the question). So actual tax dep. to be allowed (Tk.50,00,000 - 5,00,000 = 45,00,000 x 20% = 9,00,000). So excess claim Tk.10,00,000 - 9,00,000 = 1,00,000 to be disallowed. 100]		
x) Inducement payment to hunt staff [Illegal exp. not allowable at legal business]	1,000	
	<u>3,100</u>	
<b>Total Income</b>		<u>3,100</u> <u>(8,153,100)</u>



Answer to Question No. 1(c)

**Computation of Gain and Tax Liability on 'S' Unit Slump Sale to MP Ltd.**

Sales proceeds			5,000,000
Less: Net worth of 'S' unit			
Floor space value (ignoring revaluation)	1,000,000		
<u>WDV of other assets:</u>			
Furniture & Fixture (gross 500,000)	300,000		
Electric appliance (gross 400,000)	320,000		
Other fixed assets (40,00,000-15,00,000-3,00,000-3,20,000)	1,880,000		
Inventory	250,000		
Bank balance	(150,000)		
Value of total assets	3,600,000		
<b>Less: Liabilities</b>			
Liability of 'S' unit	1,500,000		
Legal expense gross [50,000x100/90]	<u>55,555</u>	<u>1,555,555</u>	<u>2,044,445</u>
<b>I think it is goodwill money not capital gain</b>			
<b>(as because not only capital assets are sold here) which is taxable u/s</b>			
<b>19(10) / 33 as income from other sources</b>			<u><b>2,955,555</b></u>
	Tax @ 35%		<u><b>1,034,444</b></u>

Answer to Question No. 1(d)

Amalgamation of BA Ltd. with AR Ltd. under the approved scheme meets condition of amalgamation as per section 2(2) of IT Ordinance. Although all assets and liabilities of BA Ltd. get vested on the AR Ltd., such amalgamation does not meet definition of 'transfer' u/s 2(66) of the law. There is no sale of assets in amalgamation, nor any price paid by AR Ltd. for the assets vested. So, there will be no capital gain tax on such transfer or even if the value of the shares issued to the shareholders of BA Ltd. is more than the net value of assets vested in the merged transferee.

AR Ltd. is not entitled to carry forward the losses and unabsorbed depreciation of BA Ltd. Such amalgamation does not meet the conditions of Section 42(4) of the Ordinance to do carry-forward and set-off. Upon amalgamation gets effective, BA Ltd. becomes dissolved and discontinued. Section 42(4) allows the carry-forward facility in the case when a company is succeeded by inheritance. Although this amalgamation scheme (court approved) describes the carry-forward entitlement of AR Ltd. to claim benefit of the brought forward losses or/and unabsorbed depreciation, it made subject to admissibility of the same under the provisions of IT Ordinance, 1984. Section 42(4) limits such carry-forward benefit by person, if not by inheritance.



Question No. 2

ABC & Co. ("Firm"), Chartered Accountants, acts as tax consultant of XYZ Ltd. ("Company"), a private limited company incorporated in Bangladesh. You are a Chartered Accountant and working as Tax Partner of the Firm. XYZ Ltd. is a subsidiary of a parent company incorporated in the UK. The Chief Financial Officer ("CFO") of the Company has requested you through an email to advise the Company on the following issues in view of the amendments made by the Finance Act, 2016:

- (a) The Company imported goods of Tk.4,000,000/= and tax was collected at the import stage @ 5% during the income year ended 30 June 2016. The annual turnover of the Company is Tk.7,500,000/= and disclosed profit in the financial statement is Tk.800,000/=. Assume that there are no disallowances of expenditure under section 30 of the ITO, 1984, and depreciation allowance is claimed as per the provisions of the 3rd Schedule of the ITO, 1984. **How will minimum tax be computed?** 4
- (b) What would be the delay interest if the Company submits return of income for the assessment year 2016-17 on 15 March 2017 upon making payment of tax payable on the same date? 3
- (c) Mr. P is a supplier of the Company and has 12-digit TIN. He supplied stationeries of Tk.1,800,000/= and Tk.2,000,000/= on 20 July 2016 and 01 October 2016 respectively. **Compute the amount of tax deductible at source and payment to be made to Mr. P for the supply dated 01 October 2016.** 3
- (d) **In the situation stated above under (b), what would have happened if the income of XYZ Ltd. had been exempted from tax or subject to reduced rate of tax?** 3
- (e) The financial year of the parent company of XYZ Ltd. is closed on 31 December. **Is it possible for XYZ Ltd. to follow the income year from 01 April to 31 March?** 2

**Requirement:**

Prepare a report for XYZ Ltd. providing computation/opinion on the aforementioned issues based on the relevant changes made through the Finance Act, 2016.



Answer to Question No. 2:

The Chief Financial Officer  
XYZ Ltd.

.....  
Dhaka, Bangladesh

10 December 2016

Dear Sir:

Opinion on the issues referred by the Company from the perspective of relevant changes made through the Finance Act, 2016

In response to your email dated ..... 2016, we are providing below our professional opinion on the issues referred by you:

- (a) Computation of Minimum Tax: **Annex-1**
- (b) Computation of Delay Interest: **Annex-2**
- (c) Amount of tax deductible at source and payment to be made: **Annex-3**
- (d) **Effect on tax exemption or reduced tax rate:**

Sub-section (5) has been inserted under section 44 of the ITO, 1984, through the Finance Act, 2016. According to the newly inserted provisions, the income of a person for the relevant income year shall not be exempted from tax or be subject to reduced rate of tax in an assessment year if the person fails to submit the return of income, as required under section 75 of the ITO, 1984. Every return under section 75 shall be filed, unless the date is extended, on or before the Tax Day. The last date for the submission of a return for a person may be extended by the DCT upon the application by the person in the prescribed form. Provided that the DCT may extend the date up to two months at his own capacity and he may extend another two months with the approval of the IJCT.

In light of the above, the Company would not be able to enjoy any exemption from tax or reduced tax rate if the time for submission of return of income had not been extended after expiry of Tax Day, i.e., 15 January 2017.

**(e) Different Income Year:**

Generally, income year is the period of 12 months commencing from 01 July of the relevant year. Bank, insurance or financial institution or any subsidiary of foreign company may follow income year from January to December. A proviso has been added to the definition of "income year" through the Finance Act, 2016. According to the new provision, the DCT may allow a different financial year for a company which is a subsidiary or holding company of a parent company incorporated outside Bangladesh if such company requires to follow a different income year for the purpose of consolidation of its accounts with the parent company.



In the case under discussion, the closing date of the parent company is 31 December and the intended closing date of XYZ Ltd. is 31 March. The DCT may reject the application for change of income year of XYZ Ltd. as the intended date, i.e., 31 March, would not justify that the purpose of change of income year is to consolidate its accounts with the parent company.

**Disclaimer:**

If there is any contradiction between our views/opinion provided in this report and judgment of a court of law or official publication/decision of any competent authority of the government of Bangladesh on the subject matter, the latter shall prevail.

Should you have any further queries in this regard, please feel free to contact us.

Yours faithfully,

.....  
Partner

**Annexure-1**

**XYZ Ltd.**

**ETIN:**

**Computation of Minimum Tax**

**Assessment Year 2016-2017 (Income year ended on 30 June 2016)**

Tk.

**Minimum tax on income from business relating to import: (A)**

Value of Import	4,000,000
Tax collected at source at import stage (@ 5%)	200,000
Income disclosed in the financial statements	800,000
Tax determined in regular manner (@ 35%)	280,000

In this case, minimum tax shall be

**280,000**

**Minimum tax on gross receipts: (B)**

Gross receipts 7,500,000

Minimum tax on gross receipts (@0.6%)

**45,000**

Minimum tax for XYZ Ltd. shall be the higher of (A) & (B)

**280,000**



## Annexure-2

XYZ Ltd.

ETIN:

## Computation of Delay Interest

Assessment Year 2016-2017 (Income year ended on 30 June 2016)

	Tk.
Minimum tax payable as per answer to the question no. 2 (a)	280,000
Tax collected at source at import stage (@ 5%)	200,000
Difference	80,000
Tax Day for XYZ Ltd.	15 January 2017
Date of Submission of Return	15 March 2017
Delay Interest:	
Monthly 2% Interest on Tk. 80,000 for 2 months	3,200

## Annexure-3

XYZ Ltd.

ETIN:

## Computation of Tax Deduction at Source

	Tk.
<b>Base Amount:</b>	
Contract Value	Nil
Bill for the supply dated 01 October 2016	2,000,000
Total amount for supplies on 20 July 2016 and 01 October 2016	3,800,000
Hence, base amount	3,800,000
Rate of TDS applicable to base amount	4%
Amount of tax deductible at source	152,000
Tax already deducted from supply of stationeries on 20 July 2016 (@3%)	54,000
Amount of tax deductible at source from the bill dated 01 October 2016	98,000
Amount payable to Mr. P in connection with bill dated 01 October 2016	1,902,000

## Question No. 3

Mr. Samuel Gomez works in Bangladesh as an officer in a Multinational Company, headquartered in the USA. His sources of income for the year ended on 30th June, 2016 were as follows:



**a. Income from Salary:**

- (1) Basic Salary Tk.15,000 per month.
- (2) Dearness allowance 10% of the basic salary
- (3) Two bonuses equivalent to two months' basic salary
- (4) Medical allowance Tk.20,000 per year (actual expense for the year Tk.10,000)
- (5) Entertainment allowance Tk.200 per month
- (6) He has been provided with a free car both for official and personal uses.
- (7) He has also been provided with a rent free quarter, municipal value of which is Tk.80,000 p.a.
- (8) Travel allowance as a part of his contract Tk.100,000 p.a. from where he saved Tk.10,000.
- (9) He contributes 10% of his basic salary to a RPF. His employer also contributed the same.
- (10) During the year, he received interest of Tk. 1,800 @ 12% on RPF.
- (11) He has taken one month's basic salary as advance in the month of June to meet up some of his financial difficulties.

**b. Interest on Securities:**

- (1) Interest on tax-free government securities Tk.3,000.
- (2) Interest on less-tax government securities Tk.2,700.
- (3) Interest on approved debentures Tk.27,300. He has borrowed Tk.20,000 @ 10% interest to purchase it. Bank also charged Tk.400 to collect the interest.

**c. Income from House Properties:**

He owns a two-storied house in Dhanmondi. He stays in one floor with his family and another floor is let out for residential purpose at a rate of Tk.9,000 per month. The municipal value of the house is Tk.200,000 per annum. During the year he spent the following expenses for the whole house:

Repair expense Tk.2,000, Insurance expense Tk.4,000, Land development tax Tk.1,500

Sewerage and utilities expense Tk.1,000, Payment of DBH Loan installment Tk.5,000 (including interest of Tk.500).

During the year, the house has remained vacant for two months.



- d. Agricultural income: Sale of crops Tk.5,000 and Income from barga Tk.2,000
- e. Share of profit from a partnership firm Tk.10,000 (firm paid no tax thereon)
- f. Income of spouse and minor child Tk.40,000
- g. He won Prize Bond lottery of Tk.300,000 [tax deducted at source @ 20% from it]

**h. Foreign Income**

During the year Mr. Gomez visited South Korea as a consultant and generated income of Tk.500,000 and he paid income tax @ 25% in South Korea. He brought Tk.250,000 to Bangladesh through bank. From another visit to Uganda he generated income of Tk.300,000 and paid income tax there @ 20%. Bangladesh has DTAA (Double Taxation Avoidance Agreement) with South Korea, but not with Uganda.

- i. **Income from business and profession** Profit from sole-proprietorship business Tk.4,000; last year's loss carried forwarded Tk.1,000.

**j. Income from other sources:**

- (1) Interest income from FDR Tk.4,500 (net of TDS @ 10%)
- (2) Profit from Islami bank Tk.900 (net of TDS @ 10%)
- (3) Cash Dividend from ICB Mutual Fund Tk.31,500 (net of TDS @ 10%)
- (4) Cash Dividend from a listed company shares Tk.1,800 (net of TDS @ 10%)
- (5) Sale of forest timber Tk.2,000

**Investment claimed by Mr. Gomez:**

- (1) Payment of life insurance premium Tk. 8,000 (Policy value Tk.100,000)
- (2) Purchase of a listed company's primary share Tk.5,000
- (3) Purchase of books and magazines Tk.1,000
- (4) Purchase of a share of co-operative society Tk.2,000
- (5) Contribution to Government Zakat Fund Tk.2,500
- (6) Purchase of Furniture Tk.15,000

**Requirement:** Based on the above information, calculate Mr. Samuel Gomez's total income and tax liability for the assessment year 2016 -17. 20



Answer to Question No. 3

Mr. Samuel Gomez  
Income Year: 2015-16  
Assessment Year: 2016-17  
Computation of Total Income

Heads of Income	Amount	Amount	Amount
<b>1. Income from Salary (Section: 21):</b>			
Basic salary (15,000 X 12)		1,80,000	
Dearness allowance (1,80,000 × 10%)		18,000	
Bonus (15,000 × 2)		30,000	
Medical allowance	20,000		
Less: Exempted – whichever is lower			
- 10% of Basic salary - Tk. 18,000			
- Maximum limit - <u>Tk. 1,20,000</u>	<u>18,000</u>	2,000	
Entertainment allowance (200 X 12)		2,400	
Car facility (1,80,000 × 5% or 60,000 higher)		60,000	
Rent Free Accommodation: lower of:			
25% of basic salary	45,000		
Or, Rental value	<u>80,000</u>	45,000	
Travel allowance	1,00,000		
Less: Exempted – up to actual expense	<u>90,000</u>	10,000	
Advance salary		15,000	
Employer's contribution to RPF (10% of Tk. 180,000)		18,000	
Interest from RPF	1,800		
Less: exempted – up to:	<u>1,800</u>	Nil	
1/3rd of basic and DA		-----	
[1,80,000+18,000=1,98,000/3] = 66,000 or,			
Interest @ 14.50% [(1,800/12)*14.5] = 2,175			
whichever is lower			
<b>TOTAL</b>			<b>3,80,400</b>
<b>2. Income from interest on Securities (Sec.22):</b>			
Interest on tax free government securities	3,000		
Less: Exempted - Full	<u>3,000</u>	Nil	
Int. on less-tax Govt. securities (2,700 × 100/95)		2,842	
Interest on approved debentures	27,300		
<u>Less: Allowable expenses:</u>			
Bank Charge	(400)		
Interest on loan	<u>(2,000)</u>		
<b>TOTAL</b>		<u>24,900</u>	<b>27,742</b>



<b>3. Income from House Property (Section: 24 ):</b>			
Actual rental value (9,000 × 12)	1,08,000		
Municipal value (2,00,000 / 2)	<u>1,00,000</u>	1,08,000	
Annual value (whichever is higher)			
<u>Less: Allowable deductions u/s 25</u>			
Repair and maintenance (25% × 1,08,000)	27,000		
Insurance (4,000 / 2)	2,000		
Land development tax (1,500 / 2)	750		
Interest on loan (500 / 2) 250	250		
Vacancy allowance (9,000 × 2)	<u>18,000</u>	<u>48,000</u>	
TOTAL			60,000
<b><u>Deemed income u/s19(30)</u></b>			
Repair and maintenance allowed		27,000	25,500
Less: claimed[2,000+1,000=3,000/2=1,500]		1,500	
<b>4. Agricultural Income (Section: 26):</b>			
Sale of crops	5,000		
Less: Allowable deductions: Production cost 60%	<u>3,000</u>	2,000	
Income from barga		<u>2,000</u>	
TOTAL			4,000
<b>5. Income from Business and Profession(Sec:28):</b>			
Profit from sole-proprietorship business		4,000	
Less: Carry forward & Set off of previous loss		<u>1,000</u>	
TOTAL			3,000
<b>Share of profit from partnership firm(below taxable)</b>			10,000
<b>6. Income of spouse or minor child</b>			40,000
<b>7. Income from other sources (Section: 33):</b>			
Interest on FDR (4,500 × 100/90)		5,000	
Profit from Islami Bank (900 × 100/90)		1,000	
Dividend from ICB Mutual Fund (31,500 × 100/90)	35,000		
Less: Exempted – up to Tk. 25,000	<u>25,000</u>	10,000	
Dividend of listed Public Ltd. Co. (1,800 × 100/90)	2,000		
Less: exempted up to Tk.25,000	<u>2,000</u>	Nil	
Sale of forest timber		2,000	
Prize Bond Lottery[income u/s 82C]		<u>3,00,000</u>	
TOTAL			3,18,000



<b>8. Foreign Income:</b>			
Income from South Korea	5,00,000		
Less: Brought to Bangladesh through official channel (exempted as per 6 <sup>th</sup> schedule(part-A) para-48 of ITO,1984).On remaining Tk.2,50,000 foreign tax credit will be applicable as per sec.144(4).	<u>2,50,000</u>	2,50,000	
		<u>3,00,000</u>	
Income from Uganda:(As there is no DTAA between Bangladesh and Uganda, so no foreign tax credit will be allowed as per section 145 as NBR not yet prescribed any rules in this behalf)			5,50,000
<b>Total Income</b>			<b>14,18,642</b>

#### Calculation of Allowable investment allowance

Particulars	Amount
Life insurance premium	8,000
Share purchase	5,000
Contribution to Govt. Zakat Fund	2,500
Contribution to RPF (18,000 ×2)	<u>36,000</u>
Actual investment	<u>51,500</u>
Maximum limit of allowable investment:	
25% (total income –income under 82C)	2,79,660
= (1346,800 – 3,00,000) X 25%	
or	1,50,00,000
Whichever is lower	51,500
Thus allowable investment allowance for tax rebate would be	51,500

#### Calculation of Allowable investment credit

15% on Tk.51,500)	7,725
<b>Total</b>	<b>7,725</b>



Calculation of Tax liability:

Particulars	Rate	Amount
On first Tk. 2,50,000	0%	0
On next Tk. 4,00,000	10%	40,000
On rest Tk. 4,68,642	15%	70,296
Total 11,18,642		1,10,296
+ tax on prize bond lottery @ 20% on Tk.3,00,000[82C income]		60,000
		1,70,296
Less: Investment tax rebate (51,500 × 15%)		7,725
		1,62,571
No Tax credit as firm's income was below taxable		Nil
		1,62,571
Less: Double taxation relief (foreign tax credit as per sec 144(4) Average tax rate in Bangladesh is (1,62,571/14,18,642) i.e. 11.46%. Tax relief on income from South Korea (as per DTAA) 30% of 2,50,000 = Tk. 75,000 but maximum relief is at an average rate of the country(2,50,000 X 11.46%) = Tk. 28,650		28,650
		1,33,921
Less: TDS[142+500+100+3,500+200+60,000]		64,442
		<u>69,479</u>

**Question No. 4**

XYZ Bangladesh Ltd. a 100% Chinese equity-held 'A' category private company, operating as export-oriented(deemed) security label products factory in Savar EPZ and enjoying 10-year tax holiday, have related party transactions. You are an ACA, working as deputy to the CA Firm's tax partner who specializes in TP. Tax partner advised XYZ as to the appropriate methods for pricing international transactions. He filed tax return of XYZ Bangladesh Ltd. for income year ended 30.03.2016 together with Statement u/s 107EE of the Ordinance, Rule 75A; selected extracts are:

**Particulars of International Transactions (XYZ Bangladesh Ltd. For y/e 30.03.2016) PART – I**  
**Tangible property of revenue and capital nature transactions**

Item	Expense ('000)	TPM Code	%	Revenue ('000)	TPM Code	%
Export of F/G				150,000	TNMM	15%
Import of R/M	50,000	TNMM	10%			
Import of Machineries	200,000	OTHER	75%			

**Service related transactions**

Item	Expense ('000)	TPM Code	%	Revenue('000)	TPM Code	%
Management Fee	10,000	TNMM	100%			



## PART – II

Interest free loans, advances and investments (figures in '000 taka)

<u>Item</u>	<u>Opening Balance</u>	<u>Increase</u>	<u>Decrease</u>	<u>Closing Balance</u>
Due to Assessee	----	5,000	---	5,000

Current accounts and similar items (figures in thousand taka)

<u>Item</u>	<u>Opening Balance</u>	<u>Increase</u>	<u>Decrease</u>	<u>Closing Balance</u>
Accounts Payable	35,000	50,000	---	85,000
Accounts Receivable	65,000	50,000	---	115,000

Exports of F/G to AE are same „label products“. The import of R/M includes semi-finished label papers of high specifications which are available only with one Chinese supplier; the AE in question has global volume contract with Chinese Supplier. Machineries include state-of-the-art printers from proprietary sources. Management fee is shared cost of technical team sitting in China under a Management Service Agreement with assessee. “Due to Assessee” includes remittance made to Paris trading office of the company to support its initial set-up cost (opened in March 2016). This new trading office is set up to secure nominations for its label products from EU customers who source apparel products from Bangladeshi suppliers. DCT referred the case for y/e 30.03.2016 to TPO u/s 107D. TPO served a notice to XYZ Bangladesh Ltd. u/s 107D (2) requiring to explain:

- Why assessee relied TNMM method and „OTHER“ method for reported/selected transactions with AEs?
- Why TP adjustment should not be given on management fee paid to AE in Shanghai?
- Why TP adjustment should not be given on interest-free remittance to AE in Paris?
- Why TP adjustment should not be given for interest on overdue receivable from AEs?

Long working with TP specialist tax partner brought you experience on TP advisory. NBR formed TP cell comprising of proven high-caliber officials from department. TP regulations are new in Bangladesh. NBR advertised for a short-term consultant (preferably CA) to seek technical supports to the cell in these initial days. You got this one-year engagement at NBR to work as Consultant at TP Cell, to begin from January 2017.

### Requirements:

- Your tax partner wants you to draft explanations in ref to TPO notice. Cover reasons why “TNMM” and “OTHER” methods are used by XYZ Ltd in its reported transactions as opposed to other methods. 8
- Draft explanation for your partner covering the reasons as to why TP adjustments should not be given for reported management fee, interest-free remittance and overdue receivable. 6



- c) During incumbency at NBR, you will support TP team with your findings identifying potential adjustments involving critical returns. Assume, you are tasked by TP head to provide findings on a return filed by your ex-Tax partner. Answer your position covering ethical threats, if any, and your possible actions. 5

**Answer to Question No. 4(a)**

A TP study on XYZ Ltd was carried out, ready for submission to tax authority. At XYZ Ltd., operating margin is taken as profit level indicator (PLI) when using TNMM method. Rule 70(1) of the IT Rules, 1984 was taken as guidance and thus the selected methods were decided for given international transactions. TNMM uses objective measures of profitability, called Profit Level Indicators (PLI) to evaluate whether the price of controlled transactions is at arm's length and so it was taken as appropriate for finished goods sale (export), raw material import and Management fee. At XYZ Ltd. when using **Transactional net margin method (TNMM)** for determining selling price of 'label products', PBIT margin on export sales from sale transactions with AEs were compared with the PBIT margin on sale from export transaction with unrelated customers. Adjustments for difference in functional analysis between transactions with AEs and unrelated parties were also given.

Similarly, for purchase of materials from AEs, PBIT margin on cost from transactions of purchase raw material transactions with AEs were compared with the PBIT margin on cost from transactions of purchase raw material transactions with unrelated suppliers. As the raw materials semi-finished, of high specifications and they are sourced from selected Chinese suppliers under the global volume contract with AEs in Shanghai, the scope of comparability with uncontrolled transactions were less. However, as the r/m is procured under global volume contract with AE, the price of raw material received by XYZ Ltd. was already competitive.

TNMM was used for Management fee also on the ground of simplicity. When doing this, the PBIT margin-Management fee to AE at XYZ Ltd. was compared with the PBIT margin-Management fee relationship practiced by unrelated competitors in the same industry sector (Label Products). Such comparison revealed the size of management fee at XYZ is lower than that practiced at uncontrolled competitors.

Application of TNMM for export sale, r/m purchase and management fee thus made the operations simple, objective and so the prices are duly in arm's length. Net margin under TNMM is less affected by transactional difference than in the case with price under CUP method. Net margin is also a better indicator than gross margin which is used in the case of CPM and RPM. PSM better suits service industry.

Use of 'OTHER' method was used for transactions with AEs for purchase of machineries. These are state-of-the art machines, purchased from proprietary sources to maintain the quality of label products. As the source is 'proprietary' and having no other alternative, no ALP pricing methods could be applied but the price of the supplier was taken as it is, i.e., the method falls under 'OTHER'. Section 107C (f) allows using 'any other method' where it can be demonstrated that none of the specific five methods can be reasonably applied to determine ALP for given international transaction. XYZ had to resort to section 107C (F) for 'machinery import from proprietary source.



#### Answer to Question No. 4(b)

Rule 70(1) was duly complied when determining the ALP methods for the three items of international transactions. Further grounds why TP adjustments should not be given on those three items:

#### Management Fee to AE in Shanghai, China

- i) Management fee is paid to AE using TNMM method which is the most reliable measure on merit, duly being backed by Rule 70(1) of the IT Ordinance.
- ii) Management fee paid is still lower than size of the item practiced by the uncontrolled competitors in the same industry of label products export, revealed by TNMM approach.
- iii) Pricing method has been determined after a detailed TP study, submitted with tax return.
- iv) The payment is well documented and the amount within the limit of section 30(h) of IT Ordinance.
- v) The amount paid to AE is towards sharing of the cost of the technical team in China (head quarter), well documented, and under a formalized agreement duly approved by BIDA. The management fee recovers proportionate cost of AE without any savings, as revealed by TP study FAR analysis.

#### Remittance to AE in Paris

- i) New trading office in Paris was set up to market, coordinate and secure nominations of the EU retainers for the assessee's label products, which will be a direct increase of assessee's export.
- ii) AE in Paris, being non-resident, cannot make any local borrowing there. The only option for initial set up cost was funding from the assessee. This remittance is also approved by Bangladesh Bank.
- iii) Fund remitted to start the set-up could otherwise be treated as 'capital expenditure' whereas the remittance has been recognized as repayable loan to AE. This means better protection to assessee.
- iv) Financial support made to AE comes under the ordinary business practice of assessee's operations. This is a one-off assistance and amount is not very large. Assessee's business is not 'lending'. Therefore, there cannot be any interest charge on the funds remitted.
- v) The decision to support AE in Paris was duly approved by the BOD for greater business cause.

#### Receivable from AE

- i) Receivable with AE is in the ordinary course of assessee's business operations, not extra-ordinary.
- ii) Receivable is not alone with AE, other parties also have receivable balance as per payment term. Such receivable is unavoidable in business.
- iii) The annual increase figure of receivable is for an amount which is equally off-set by the payable to AE. The net effect on assessee is well balanced.
- iv) There is no term of interest charge on the receivable with the AEs when sale was done.



#### Answer to Question 4 (c)

As NBR consultant, I shall be in the character of a PAIB. Working on a file of my ex-tax partner's client at my incumbency at TP cell may be an issue of 'conflict of interest' which may create threats to objectivity and other fundamental principles, such as, integrity, confidentiality and good reputation of my profession. I shall be subject to NBR contractual terms, policies and procedure of NBR and the Govt. Secrecy law. I shall be exposed to 'familiarity threats' for my long association with ex-tax partner plus a threat of 'self interest' for the likely slide of my image if I fail to do a just job at TP cell. The threats are significant. No safeguard seem to be relevant. I have to a firm position. As a TP Cell consultant, I shall draw an ethical wall both in fact and appearance under the circumstances. I shall remain objective, confidential at all times and shall not allow any undue influence including any familiarity pressure in my mind to override my professional judgment. I shall not allow conflict of interest but shall disclose to my TP cell boss the fact of my relationship with ex-tax partner and the tasked file in hand. If I am still tasked to do the job, on merit, I shall bring change in my conduct with my ex-tax partner during my incumbency at TP Cell. Major threats as mentioned could thereby be managed well.

#### **Question No. 5**

- (a) B Ltd. will be amalgamated with A Ltd., which has a few VAT cases pending with the VAT appellate authorities. With reference to section 59 of the VAT Act, 1991, VAT authority sent a letter asking B Ltd. to make payment of VAT relating to those pending cases before starting amalgamation procedures. As a professional accountant having expertise in VAT matters, you have been asked by the management of B Ltd. to advise them.

#### **Requirement:**

Provide your opinion on the letter issued by the VAT authority in the case stated above. 5

- (b) As an ICAB fellow member, after working long years, you moved to own practice. VAT is your specialty. Your retainer-basis client, „Smart Footwear Ltd.“ involves in export and domestic sale of footwear. This is your single largest fee client. Client provided you a chamber at management floor. As proactive advisor to clients on tax planning, you encourage client to gradually introduce process of claiming input VAT rebate and also train them on sensitive conducts not to land in fines/penalty. Section 37 of VAT law attracts fixed fine and variable penalty for certain offences. List includes offences of VAT evasion and offences of fixed fines. Smart Footwear use imported bonded materials for export orders. You came across incidents that Smart Footwear sold bonded materials in local market. This holds potential VAT action. You discussed this with management who requested you to stay quiet as the year has already passed by.

#### **Requirements:**

- i) Write three critical suggestions for client to be careful in order not to run on penal actions u/s 37 that may be featured as VAT evasion. 3
- ii) Consider issue of breaching bond conditions. Identify threat(s) to any fundamental principles of professional ethics and professional threats, if any, arising from incidents and explain why the threat(s) arise and if you have any safeguards to mitigate the threat(s). 5



**Answer to Question No. 5 (a)**

VAT Act, 1991 and VAT Rules 1991 do not specifically address the issues relating to amalgamation. Transfer of assets and liabilities by amalgamating company to the amalgamated company is not transfer of any movable or immovable property within the control of the undertaking of a registered person or the transfer of ownership of his undertaking as set forth in section 59 of the VAT Act, 1991. In the amalgamation process, the shareholders of the companies desirous to be amalgamated approve the scheme at appropriate legal forum. During the amalgamation process, one of the companies is discontinued and the surviving company takes ownership of the assets and liabilities. If the name of the surviving company is changed, then the change must be approved with the respective regulatory body. In practice, clear directions are given by the appropriate legal forum with regard to the fiscal obligations, if any, of the reporting entity.

Whereas, section 59 of the VAT Act, 1991, is made applicable for transfer of ownership wherein the entity will remain there but only ownership is changed. Here in this case, the said shareholders are not transferring the movable or immovable property or ownership of the undertaking, rather assets belonging to their companies will be merged and they will remain owner thereof by holding shares in the amalgamated company. In the amalgamation process, the companies are merged alongside the merger of assets and liabilities owned by them. It is not the case where the transferor company will remain as a distinct entity like a usual seller would after transfer of its assets and liabilities.

As such, we advise you to let the authority know that section 59 of the VAT Act, 1991 is not made applicable to amalgamation scheme, unless the court so directs. For this claims, we advise you to follow the directives given by the court.

**Answer to Question No. 5 (b)**

(i) Section 37 of the VAT Act 1991 provides for offences and penalties. There are offences subject to fixed fines and there are offences leads to charges of VAT evasion.

Three critical suggestions I can make to Smart Footwear Ltd. to stay off charges u/s 37 are as follows:

- Selling goods (subject to VAT) without issuing VAT Invoice,
- Sales delivery without updating the same in Sales Book (VAT 17) and without recording the payable VAT on such sale in the Current Account (VAT 18),
- Selling goods without maintaining sufficient balance in the Current Account.

(ii) Smart Footwear Ltd. need to pay zero (0) % VAT as they export their footwear. Moreover, they enjoy bonded facility for importing raw materials to produce these exportable goods. It came to our notice that they have sold some of these imported raw materials to local market. t. This is an illegal conduct that holds potential charges to revenue evasion. An illegal conduct is always illegal regardless of its age. Customs bond audit in future may detect this departure.

I understand that this is my single largest fee client; management keeps me in their respect and provided me space facility. When I spoke to the management, they wanted me to stay quiet as the incident is not current. I am an Accountant in public practice. The incident brings before me threats to fundamental principles like 'objectivity' and independence and it exposes me intimidation threat as I might lose my client resulting in reduced fee and increased cost for the space provided to me.



On the other hand, my engagement with Smart Footwear Ltd. is advisory, not statutory audit assignments which mean threats are there but not significant for me. It also doesn't come in my obligation to disclose the incident to revenue authority.

As my obligations to fundamental principles and to mitigate the identified threats, I shall consider following possible safeguards:

- Putting up the incident in writing to management (Board of Directors) with my views and the potential consequence that may result from such non-compliance,
- training department staff who are involved in the incident,
- Developing an internal control policy paper for the management to comply rules and regulations to avoid such non-compliance.
- If the management do not take a decision in future, I may consider resignation as a consultant

#### Question No. 6

Regent Company produces different consumer products. To produce their products they import some ingredients from China and use some local ingredients. To produce 10,000 pieces (pcs) of AAA Makeup Box for November 2015 they procured and used following ingredients as per standard practice:

**Ingredient A:** 1,200 kgs by Tk.517,440 where VAT was Tk.65,340, AIT (advance income tax) Tk.16,500, Customs Duties (CD) Tk.33,000 and Supplementary Duty (SD) Tk.72,600;

**Ingredient B:** 600 kgs by Tk.356,345 where VAT was Tk.45,045, AIT Tk.11,000, CD Tk.66,000 and SD Tk.14,300;

**Ingredient C:** 800 kgs by Tk.150,000 (VAT-exempted); and

**Ingredient D:** 10,050 pcs by Tk.138,000 where VAT was Tk.18,000.

Ingredients A and B were imported items and Ingredients C and D were locally procured from wholesale market.

Standard Gas bill for such quantity of products was Tk.120,000 and Electricity bill was Tk.55,000 excluding VAT.

Per Unit costs were: Labor cost Tk.80, factory overhead Tk.90. Standard marketing overhead cost in total was Tk.50,000 and bank interest Tk.45,000 for November 2015.

Company profit markup policy is 30% after charging all costs.

Company produced and sold 1,000 pcs AAA Makeup Box in November 2015.

As a Manager (Costing & VAT) of the company you are required to submit Form VAT-1 for Product AAA and Form VAT-19 for the month of November 2015.

#### Requirements:

- (i) Find out per unit AAA Makeup Box cost for Form VAT-1 and selling price. 5
- (ii) Determine the amount of input VAT that will be allowed as rebate in Form VAT-19 and net VAT payable for November 2015. 2



Answer to Question No. 6

(i) **Regent Company**  
**Computation of Sales price of AAA makeup Box**

Particulars	Cost Excluding VAT	VAT Paid (Rebate able)
Ingredient A	4,35,600	65,340
Ingredient B	3,00,000	45,045
Ingredient C	1,50,000	0
Ingredient D	1,20,000	18,000
Gas bill (Rebate= 15% of costx80%)	1,20,000	14,400
Electricity bill (Rebate= 15% of costx80%)	55,000	6,600
<b>Material Cost</b>	<b>11,80,900</b>	<b>1,49,385</b>
Per unit Material Cost	11,80,900/10,000	118.09
Labor Cost		80.00
Overhead		90.00
Marketing overhead	50,000/10,000	5.00
Bank Interest	45,000/10,000	4.50
Per unit Product Cost		297.59
Profit	30%	89.28
Price before VAT		386.87
VAT	15%	58.03
		<u>444.90</u>

6 (ii) Output VAT (Tk. 58.03 x 10,000)	580,300
Input	<u>149,385</u>
VAT payable	<u>430,915</u>

As such cost per unit AAA make up box will be Tk. 297.59. After adding Tk. 89.28 as profit the VAT assessable value will be Tk. 386.87. So the selling price to the customer will be Tk. 444.90

Input VAT for the month of November 2015 may come to Tk. 149,385 and regent will be required to deposit Tk. 430,915 to the Government exchequer. The same will be reported in the VAT-19.

Assumptions made:

- VAT on Gas and Electricity is 15%
- Regent' name is there in the B/E and the goods entered into the factory within November 2015

There will be no input VAT in connection with the marketing overhead.



## TAXATION - II

### May-June 2017

#### Question No. 1

XYZ Ltd., a private company, is engaged in business segments that cover (i) mfg/trading of ceramic tiles, (ii) mfg/export of leather products and (iii) international trading. Net profit of the company for the year ended 30.06.2016 is taka 50,00,000 after giving effect of the following items as appropriate in the books:

- i) License fee taka five lacs incurred for obtaining five-year franchise on 15 July 2015
- ii) Paid cash Taka 50,000 to transport operator, Taka 150,000 to chemical supplier used in tiles mfg.
- iii) Rent taka five lacs received from letting out a part of its office premises. Municipal tax, in respect of the said part of the building, amounting to taka 10,000 remains unpaid.
- iv) Taka three lacs, being loss due to destruction of machinery caused by a fire. The insurance company compensated taka two lacs against the fire loss claim.
- v) Taka 4 lacs and one lac being amounts waived by Janata Bank Ltd. out of principal and arrear interest respectively in one-time settlement. Loan was obtained for working capital need five years back.
- vi) Dividend of taka 10,000 from Dell Ltd. on 1,000 equity shares of taka 10 each purchased at taka 100 per share on 10th October, 2015. Dividend declared is 100%, the record date being 01.12.2015. Shares were sold on 1st March 2016 at taka 80 per share. Loss of taka 20,000 has been debited to PL account.
- vii) Taka 50,000 paid to vendor of office supplies on which VAT was not deducted.
- viii) Depreciation on tangible fixed assets taka one lac including taka 50,000 on assets revaluation.
- ix) Taka 50,000 compensation paid to UK supplier for cancellation of machinery import contract from UK.
- x) Provision for deferred tax taka 1,00,000.

**Additional Information gathered with respect to XYZ Ltd. for accounting year ended on 30.06.2016:**

- a. Depreciation on tangible fixed assets for the income year (relating to units other than trading unit) as per income tax rules taka 1.75 lac.
- b. Company obtained a loan of taka two lacs from ZXY Pvt. Ltd. in which it holds 30% voting rights. Accumulated profits of ZXY Pvt. Ltd. on the date of receipt of loan was taka 50,000.
- c. Company exports leather products to Spain. Balance Sheet (General Reserve: Surplus on Devaluation) shows a credit of taka 1,75,000, amount realized and brought in the income year from a Spanish customer as surplus on a/c of the devaluation of BDT in 2014.
- d. Company suffered heavy loss in its international trading segment. It was closed down and the fixed assets linked to this trading unit were sold out. Company claimed unabsorbed depreciation (on a/c of trading unit assets) of taka 50,000 in the Return of income. It's not debited to PL a/c.
- e. Under a debt restructuring with Agrani bank, the company converted arrear interest taka 3,00,000 on term loan into a new term loan with a revised repayment schedule. Company paid taka 50,000 towards such funded interest during the year. Entire taka 3,00,000 debited to PL a/c.
- f. Provision for bonus for the income year ended 30.06.2015, disallowed in same income year, paid during the year ended 30.06.2016 taka 1,00,000.
- g. Assessed brought-forward losses and unabsorbed depreciation as follows:



<b>Income Year</b>	<b><u>Losses Brought Forward</u></b>	<b><u>Unabsorbed Depreciation</u></b>
2012-13	2 lacs	1 lacs
2013-14	----	3 lacs
2014-15	4 lacs	1.5 lacs
Total taka	6 lacs	5.5 lacs

- h. **Tannery at Hazaribag:** In connection with its leather manufacturing unit, XYZ Pvt. Ltd. operates a tannery at Hazaribag. Complying the court decree involving a case with the Government, Company transferred its tannery unit to Savar in which it incurred an expenditure approx. taka 25,00,000 for transfer of entire unit that includes sheds, machineries, equipments, raw material and finished leather.

Company also incurred taka 5,00,000 as legal fees as a member of Tannery association to contest the court case which it lost. These payments shall hit accounts of the current income year.

#### **Planned Expansion on a Retailing unit:**

Company's ceramic tiles are not selling that well through its dealers. Management of XYZ Pvt. Ltd. identified the probable causes to such slide in business. Management considers that a watertight retailing entity with selling focus may make a turnaround. Being tax manager of XYZ Ltd, you are tasked to bottom up a report to management on '**optimum capital structure**' for a new retailing unit which maximizes the wealth and minimizes the cost of capital. Your look out is to strike a balance among risk, cost, control and tax consideration arriving at a most tax-efficient model. Estimated initial fund required is taka One crore.

You are aware that BSEC introduced BSEC (Alternative Investment) Rules 2015 to open up Private Equity and Venture Capital (VC) Firm operations. Management spoke to a VC firm who agreed to provide equity-linked debt. Available sources are 100% equity, or a tax-efficient mixture of equity, VC Firm borrowing (interest 8%) and bank loan (interest 10%). Expected ROI (EBIT basis) is 20%. Dividend trend in the same sector is 15%, assume tax rate 35%.

#### **Requirements:**

- Compute total income of XYZ Ltd. for Assessment Year 2016-17. Show reasons for treatment.
- With respect to tannery unit transfer, give your comment with explanations on whether company can claim deductions of taka 25,00,000 and taka 5,00,000 in the current income year tax return.
- Suggest as a tax planner most tax-efficient and above-the-dividend-trend alternative for new retail entity supported by detailed computations. Work out on three given alternatives (A: 100% equity, B: 40% equity+40% VC Debt+20% loan, C: 20% equity+30% VC Debt+50% loan).



**Answer to Question No. 1(a)****ASSESSEE: XYZ Pvt. Limited****Computation of Total Income**

Income Year Ended on 30.06.2016. [Assessment Year: 2016-17]

	<u>in Taka</u>
<b>A. Income from House property u/s 24</b>	
Annual Value from premises rental (assumed reasonable)	5,00,000
Less: [1] Repairs & maintenance 30% of A.V. (assumed spent)	1,50,000
[2] Municipal tax levied but not paid	
[Being permissible allowance without proof of actual payment u/s 25(e)]	10,000
	1,60,000
	-----
<b>Net taxable Income from HP:</b>	<b>3,40,000</b>
<b>B. Income from Business u/s 28:</b>	
Net Profit as per PL a/c	50,00,000
LESS: <u>Income for consideration at separate head:</u>	
[1] Rental income (for consideration at HP income head)	5,00,000
[2] Interest waiver by bank (as it is not income u/s 19(11))	1,00,000
[3] Cash dividend (for consideration at other income head)	10,000
	(6,10,000)
ADD: <u>Inadmissible expenses</u>	
[1] 5 year's License fee paid for franchise (Amortization will be allowed as per 3 <sup>rd</sup> Schedule)	5,00,000
[2] Loss on destruction of machinery (29(1)(xi)) (Being actual loss Tk.100,000 but claimed Tk.3,00,000)	2,00,000
[3] Accounting dep. (For separate consideration)	1,00,000
[4] Compensation paid to UK suppliers (for violation of contract)	50,000
[5] Provision for deferred tax (no such provision is allowable u/s 29)	1,00,000
[6] Capital expenditure for shifting tannery to Savar	25,00,000
[7] Municipal tax (for consideration at HP income head)	10,000
[8] Capital loss on sale of shares (as not related to business)	20,000
[9] Interest under debt reconstruction of Agrani Bank [note-5]	3,00,000
	37,80,000
LESS: <u>Items to be allowed:</u>	
[1] Amortization on License Fee (3 <sup>rd</sup> Sch, para 10A)	1,00,000
[2] Tax depreciation as per 3 <sup>rd</sup> schedule	1,75,000
	(2,75,000)
	-----
<b>Income from Business</b>	<b>78,95,000</b>
Less: Carried forward of business loss and depreciation loss u/s 38	11,50,000
	-----
<b>Income from Business [after carry forward and set-off of earlier year's loss]</b>	<b>67,45,000</b>
<b>C. Capital Gain</b>	
Share transfer:	
Proceeds from share sale	80,000
Less: Cost of acquisition	(100,000)
	-----
Loss on sale of share (not to be set-off as per section 37)	(20,000) Zero



#### **D. Income from Other sources**

[1] Cash dividend income from Dell Ltd.	10,000
Less: Exempted up to Tk. 25,000 as per 6 <sup>th</sup> schedule (Part-A) Para-11A	(10,000) Zero
[2] Deemed dividend u/s 2(26)(e) for taking loan from ZXY Ltd. (Maximum up to accumulated profit of Tk. 50,000).	50,000
<b>TOTAL INCOME</b>	<b>71,35,000</b>

#### **Note:**

- [1] There is no violation of section 30(m) of ITO, 1984 for cash payment of Taka 50,000 to transport operator and Taka 150,000 to chemical (raw material) supplier used in tiles mfg. and accordingly not disallowed u/s 30(m).
- [2] There is no violation of section 30(aa) of ITO, 1984 for non-deduction of VAT at source Tk. 50,000 paid to vendor of office supplies with effect from the assessment year 2016-17 and accordingly not disallowed u/s 30(aa).
- [3] Provision for bonus taka 1,00,000 was disallowed earlier year. This year though paid but not reflected in this year's accounts as it is earlier year's expense. There is no provision to allow it as this year's expense u/s 29 of ITO, 1984. So no tax treatment needed this year.
- [4] Company claimed unabsorbed depreciation (on a/c of trading unit assets) of taka 50,000 in the Return of income but not debited to PL a/c. No action is required as it is not allowable as per 3<sup>rd</sup> schedule.
- [5] Under a debt restructuring with Agrani bank, the company converted arrear interest taka 3,00,000 on term loan into a new term loan with a revised repayment schedule. Company paid taka 50,000 towards such funded interest during the year. Entire taka 3,00,000 debited to PL a/c. Nothing will be allowed further as it was allowed in the relevant income year u/s 29 on payable basis.
- [6] Legal fee against Govt. decision to move tannery to Savar is allowable expenditure assuming that the cost of the case was borne by the tannery association as per verdict of the honorable court. So it will not matter whether they win or lose. The expenditure is fully related to business and accordingly allowable expenditure.
- [7] No tax treatment is needed in case of loan+interest waived by Janata Bank as per 1<sup>st</sup> proviso of section 19(11) of ITO, 1984.
- [8] There is no tax implication of Tk. 1,75,000 brought in the income year from a Spanish customer as per 6<sup>th</sup> Schedule (Part-A) para-48 assuming that it was brought through official channel.

#### **Answer to Question No. 1(b)**

- [1] Expenditure relating to shifting/relocating tannery to Savar is capital in nature. So it is not allowable expenditure as per section 29 of ITO, 1984
- [2] Legal fee against Govt. decision to move tannery to Savar is allowable expenditure assuming that the cost of the case was borne by the tannery association as per verdict of the honorable court. So it will not matter whether they win or lose. The expenditure is related to business and accordingly allowable expenditure.



**Answer to Question No. 1(c)**

PARTICULARS		Alternative A Taka	Alternative B Taka	Alternative C Taka
Share Capital		10,000,000	4,000,000	2,000,000
Bank Loan			2,000,000	5,000,000
VC Firm Debt			4,000,000	3,000,000
Total investment		10,000,000	10,000,000	10,000,000
Debt-Equity ratio				
Return on Investment(EBIT basis)	20%	2,000,000	2,000,000	2,000,000
LESS:				
Bank loan interest	10%	-	200,000	500,000
VC Firm Debt	8%	-	320,000	240,000
Total		-	520,000	740,000
Net Income		2,000,000	1,480,000	1,260,000
Income tax	35%	700,000	518,000	441,000
Return on Equity Share Capital		1,300,000	962,000	819,000
Rate of Return on Equity (before dividend tax)		13%	24%	41%

So, Alternative C is the most tax-beneficial Capital Structure (least tax, highest ROI).

**Question No.2**

Captain Tausif U. Khan, a Bangladeshi young man, a successful RMG entrepreneur well-known in the selected EU customers network, operates following business units in Bangladesh (a,b,c being private limited companies):

- TUK BD Ltd. (Captain held 60%, four other Bangladeshi directors 40%)
- TUK Woven BD Ltd (Captain held 60%, four other Bangladeshi directors 40%)
- TUK Knit BD Ltd. (Captain held 60%, four other Bangladeshi directors 40%)
- TUK and Partners (the Firm. Captain Khan's share 60%, balance with three friends)
- TUK Singapore Limited (100% held by Captain Khan).
- TUK UK Ltd. (100% held by Captain Khan)

Captain Khan is the MD of the limited companies in Bangladesh and only director in companies in UK and Singapore. TUK BD Ltd. secures export orders from EU retailers from Bangladeshi suppliers.

Captain Khan, living with his parents in Dhaka until he permanently migrated to UK with his family in 2016. As condition of migration, he set up 'TUK UK Ltd' during the relevant income year in UK. He bought an apartment in London. Captain Khan qualifies for UK tax residency in 2015-16(ending 05.04.2016). He also qualifies for tax residency for the same income year in Bangladesh (2015-16, ending 30.06.2016). Captain Khan provided following information affecting the income year 2015-16:

- He received total taka 30,00,000 (net of tax) tax-paid remuneration from three Bangladeshi limited companies.
- Bank interest received in Bangladesh taka 99,000 net of tax @10%.
- Dividend received on his investment in ICB Mutual Fund taka 25,000.
- Remuneration receivable from TUK and Partners (the Firm) taka 2,50,000 for the income year ended 30.06.2016. In the income year ended 30.06.2016, the firm made net loss taka 3,00,000.



- v) Interest received on Resident Foreign Currency Deposit A/c (RFCD) equivalent Taka 25,000 net of tax.
- vi) Singapore company paid his salary US Dollar 120,000/=. Of this, the company remitted USD 50,000 to his London bank a/c to meet his London living and remitted USD 50,000 to his Dhaka bank a/c to make up the shortfall of funds to buy a plot of land(Exchange rate Taka 80 to USD; USD 1.25 to GBP; Taka 110 to GBP).
- vii) He received compensation of taka 10,00,000 from a developer for cancellation of an apartment-buy contract
- viii) His default penalty clause of taka 10,00,000 in a land-buy agreement with a land seller has been waived to his favour.
- ix) Paid Tk. 2,00,000/= interest on loan he took to buy a car and income tax Tk. 50,000 paid on fitness renewal.
- x) He paid GBP 5,000 net income tax in UK after Singapore tax relief and USD 20,000 tax in Singapore.
- xi) He sold his 9% share in TUK & Partners (Firm) for amount with a gain of taka 10,00,000/-. He invested full amount of gain in shares in a private limited company in the same month.

Captain Khan has multiple issues for taking decisions which he wants to discuss with you (**Exhibit 1**).

#### **Requirements:**

- a. Captain Khan qualifies for tax residency in UK in 2015-16 and also in Bangladesh for overlapping income year 2015-16. How will you classify tax residential status of Captain Tausif U Khan in Bangladesh for the purpose of filing tax return for Income year 2015-16 while he is tax resident in same year in UK? How will you classify an individual if you are unsure of 'centre of vital interest'? Explain in reference to the DTAA standard fiscal domicile article.
- b. Compute total income and tax liability of Captain Khan in Bangladesh for income year ended June 30, 2016. Use current year (AY 2016-17) tax provisions, rates and rules for this computation.
- c. Write an opinion letter to Captain Khan detailing the tax planning advices in the light of the provisions of I.T. Ordinance 1984 touching all issues raised by him in the **Exhibit 1**.

**Marks: [8+14+6] =28**

#### **EXHIBIT 1**

(In connection with Question No. 2)

1. Captain Khan wants to engage a full-time expatriate CEO (an Indian, now working at a retailer sourcing office in UK) to oversee his Bangladesh business. They agreed on a monthly salary of US Dollar 5000/= all-in plus tax on company and the expatriate is free to join subject to work permit. How to split monthly sum into pay components and when the expatriate should be asked to join so as to have lowest tax exposure for the company in Bangladesh?
2. Captain Khan received Taka 36,00,000 tax-paid salary from his Bangladeshi companies during the year ended 30.06.2016. He filed own tax return claiming credit of the tax paid by the company on his salary. Assessing Officer (AO) issued order adding taka 600,000(tax paid by company) to his personal expenditure (IT 10BB) creating tax demand on the ground of undisclosed expenditure (the tax paid by companies). What is the validity of AO's action and next course?



3. Captain Khan is mulling the option of creating a website within his UK company. Primary objective of the site is to sell space to Bangladeshi RMG suppliers to advertise their products for EU customers on payment of agreed rental to Captain's UK company. Idea appears promising. He wants to be sure about tax exposure for his UK company in Bangladesh for earnings from Bangladeshi customers (Bangladeshi companies will pay from permitted forex quota).

#### Answer to Question No. 2(a)

Article 4 of DTAA provides for standard 'fiscal domicile' criteria. A person is liable to pay tax by reason of his domicile, residence, place of management or any other criterion of similar nature. An individual may be resident in more than one country in the same income year. If an individual is a resident of both contracting state (say, in this question of Bangladesh and UK), the individual shall be deemed to be a RESIDENT of the Contracting state in which he has permanent home available to him. If he has permanent homes in both the countries, he shall be deemed to be a RESIDENT of the country with which his personal and economic relations are closer (center of vital interest).

As Captain Khan is tax resident of both Bangladesh and UK, he has permanent residence in both countries, his centre of vital interest is in Bangladesh as his personal and economic including business connection is closer in Bangladesh. In other words, he is tax resident in Bangladesh for the purpose of computing his total world income. If an assessee's center of vital interest cannot be ascertained, his domicile, birth country, connection to parent and properties, nationality etc. shall decide his tax residency for income computation.

#### Answer to Question No. 2(b)

##### **Computation of total income and tax liability of Captain Tausif U Khan**

**Income year: July 01 2015 to June 30, 2016. [Assessment Year: 2016-17]**

**Status: RESIDENT (based on criteria of centre of vital interest).**

**TIN: XXXXXXXXXXXXX**

##### **Income from Salaries u/s 21:**

	<b>BDT</b>	
Net salaries from Bangladeshi companies	30,00,000	
i) Salaries from Singapore company (120,000 x 80) =	96,00,000	
Less: Exempted due to remittance to BD a/c (6 <sup>th</sup> Schedule, Part A, Para 48)	<u>(40,00,000)</u>	56,00,000
ii) Remuneration receivable from Firm	2,50,000	
	88,50,000	

##### **Income from capital gain u/s 31:**

i) Gain on sale of partnership firm share		
10,00,000		
Less: Exempted u/s 32(11) due to invested in equity of a new company	<u>(10,00,000)</u>	zero

##### **Income from other source u/s 33:**

i) Bank interest received [grossed up]	1,10,000	
ii) Cash dividend on ICB MF 25,000 (exempted, 6 <sup>th</sup> Schedule, Part A, Para 22A)	----	
iii) Bank interest received on RFCD net 25,000 [grossed up]	27,778	
iv) Compensation received on contract cancellation u/s [19(10)]	10,00,000	
v) Cancellation of indebtedness (default penalty waived) u/s [19(11)]	10,00,000	21,37,778
<b>Total Income</b>		<b><u><u>1,09,87,778</u></u></b>



### Tax Computation:

On first taka 250,000 at 0%	=	0
On next taka 4,00,000 at 10%	=	40,000
On next taka 5,00,000 at 15%	=	75,000
On next taka 6,00,000 at 20%	=	1,20,000
On next taka 30,00,000 at 25%	=	7,50,000
On next taka 62,37,778 at 30%	=	<u>18,71,333</u>
Total Gross tax – world income basis		<u>28,56,333</u>

No investment; so no investment tax rebate

Rate of average tax on Bangladesh rates =  $28,56,333 / 1,09,87,778 = 26\%$

Tax on Singapore NET income using BD tax rate =  $(56,00,000 \times 26\%) = 14,56,000$

Tax paid in Singapore on Singapore salary income (USD 20,000 x 80) = 16,00,000

[Tax paid in UK cannot be taken relief against Singapore income]

Tax relief available for Captain Khan for overseas income as per section 144(4) = 14,56,000

### **Net Tax Payable:**

Total Gross tax – world income basis	=	28,56,333	
Less: Tax relief for overseas income	=	14,56,000	
Less: Tax paid in Bangladesh:			
i) Tax paid by BD companies on salary		6,00,000	
ii) TDS on bank interest		11,000	
iii) TDS on interest on RFC		2,778	
iv) AIT paid on car fitness		<u>50,000</u>	<u>21,19,778</u>
<b>NET DUE</b>		<u><u>7,36,555</u></u>	

### Answer to Question No. 2(c)

To

Captain Tausif U Khan

In ref to your tax issues embodied in Exhibit 1 of your letter, we are pleased to form following tax opinion:

1. As the salary tax is on the company, we understand, you want to keep the tax exposure on in-talk Indian expatriate as low as possible. To achieve this, attention should be given to available tax-free allowances for individual (being a resident), maximum perquisite limit binding on the company and tax-paid salary remittability by the expat to his home. Approx monthly salary split can be offered as:

Basic salary	USD	4,500
House rent allowance	USD	330
Conveyance allowance	USD	40
Medical allowance	USD	130
		-----
<b>Total Monthly</b>	<b>USD</b>	<b>5,000</b>

To keep the salary tax lower, expat should be engaged officially in Bangladesh so as to enable him qualify tax residency. For this reason, expat can be asked to join from July 2017 while formalities of his work permit can be accomplished by the time prior to that.



2. Action of Assessing Officer is not correct. You received tax-paid salary from companies as per the terms of your employment. The tax was paid by the companies, not by you. There is no 'deduction of tax' here in this case u/s 50. This is perquisite in the hand of the company. There is no impact of your cash flow. That claiming credit of the tax on company's tax-paid salaries cannot be legally termed as your expense. Tax amount cannot be added to your personal expenditure as it is not paid by you. Better you can prefer an appeal for deletion of such unlawful addition.
3. Orders for renting the website shall be received directly in UK. The contract for renting your company's website by Bangladeshi customers is considered to be executed in UK. Business is transacted in place where contracts are executed. We assume that you will continue to remain in UK as a condition of your migration program and you will control and manage UK Company from being there in UK. In that case, TUK UK Ltd. shall be a resident company, non-resident in Bangladesh. We also assume, UK Company shall not operate any PE in Bangladesh to source and manage customers in Bangladesh. Website rental payments shall be paid by the Bangladeshi customers in remittable foreign currency directly to UK Company. Business is transacted in the local in which the contracts pertaining to business transactions are concluded. Under these circumstances, TUK UK Ltd. shall have no tax liability in Bangladesh for profits arising to UK from website earnings from BD customers.

### Question No. 3

ABC Private Ltd. manufactures and sells float glass boat. Paid-up capital of the company is taka 1,00,00,000 (10,000 shares of taka 1,000 each) held by **Mr. A (60%)**, **Mr. B (20%)** and **Mr. C (20%)**. Key extract from Balance Sheet on 31.12.2016 are: P/up capital 1,00,00,000, Accumulated Surplus 17,00,000, Cash at Bank 2,00,000, Cash In Hand 3,00,000.

**Mr. A** holds technical expertise of float glass boat making. Boats are sold to Coast guard, Bangladesh Navy and private theme parks. Migrated to Canada three years ago, **Mr. A** cannot run business any more. Other shareholders are not capable to run the business. They decided to wind up the company as per EGM on 31-12-2016 and appointed a Liquidator. Company commenced winding-up based on balance sheet of 31-12-2016. Company obtained tax clearance with no tax liability. Liquidator's Receipts & Payments on 31-03-2017 are as follows:

ABC Private Ltd. (Under Voluntary Liquidation)			
Receipts		Liquidator's Receipts & Payments Account	
		Payments	
Opening Balance (bank)	2,00,000	VAT/TDS paid	1,00,000
Opening balance (cash)	3,00,000	Payable settled	2,00,000
Receivable collected (all)	10,00,000	Office expense paid	2,00,000
Sale of boat stock (all)	25,00,000	Liquidator fee paid	3,00,000
Paid to shareholders including TDS on cash dividend			32,00,000
			-----
			40,00,000

In addition to the above receipts and payments, Liquidator distributed entire stock of fixed assets to the shareholders in proportion to their shareholding at a market value of taka 75,00,000. Considerations to shareholders have been made in proportion to their share holdings.

Fixed assets that **Mr. A** got upon liquidation are mostly open boat yard and equipments. **Mr. A** is in talk with a buyer of those assets and agreed to an offer at taka 62,00,000/= for his entire portion of the ABC Ltd. assets. **Mr. A** is very much aware about the taxability of such sale deal and whether he can take out the proceeds to Canada. Status of **Mr. A** is a non-resident Bangladeshi.



**Requirements:**

- What is the compliance obligation of the Liquidator in ref to the relevant section of Income Tax Ordinance 1984? Can a Liquidator be treated as Principal Officer of the Company?
- Compute total income and tax implication of Mr. A for the considerations he received upon liquidation.
- Write your views in ref to the provisions of the Ordinance about (i) taxability on the company on the distribution of assets to shareholders upon liquidation, (ii) tax implications of the sale of assets by Mr. A he got from ABC Ltd. upon liquidation.

**Marks: [5+10+5] =20****Answer to Question No. 3(a)**

A Liquidator shall send notice about my appointment to the DCT of respective company circle within 30 days of my appointment u/s 101(1). On being notified by the DCT u/s 101(3), the Liquidator shall set aside amount equal to the amount on notice and shall not part with the assets of the company excepting the preferential payments as per law.

As per section 2(48)(b) of ITO, 1984 the Liquidator may be treated as Principal Officer of the company If the DCT served notice of his intention to treat him as Principal Officer. After all the affairs of liquidation are vested on the Liquidator and upon getting notified by the DCT u/s 101(2), Liquidator very much lands in the shoes of Officer or manager of the company. This binds him to comply with TDS obligation on the payments and income, if any, during the liquidation process at his disposal. There may still be collections of taxable income and payments of expenses subject to TDS. Ordinary liability of the company continues on the Company under Liquidation and so on the Liquidator. This binds the Liquidator to comply with all applicable provisions including TDS and file tax return if any due until the end of the winding up process.

**Answer to Question No. 3(b)**

**Tax Consequence in the hands of Mr. A on considerations from ABC Ltd.  
Income year: 2016-17. Assessment Year: 2017-18**

	<b>Total Sum</b>	<b>Proportion of A</b>	<b>TAKA</b>
Money received upon liquidation	3,200,000	60%	1,920,000
Assets received upon liquidation(market value)	7,500,000	60%	4,500,000
Total Consideration of Mr. A			6,420,000
Less: Amount as deemed dividend u/s 2(26)©	1,700,000	60%	1,020,000
[Pro-rata of the Accumulated Surplus on 31-12-16]			
Consideration to be treated as capital assets transfer upon liquidation U/s 32			5,400,000
LESS: Cost of Acquisition u/s 32(2)(d)			6,500,000
CAPITAL GAIN on consideration received - Loss			(1,100,000)
FROM THE ABOVE COMPUTATION:			
Capital Gain upon liquidation U/S 32 - LOSS			(1,100,000)
Dividend Income upon Liquidation U/S 2(26)©, 33			1,020,000
TAX IMPLICATIONS ON Mr. A:			

Dividend income taka 10,20,000/= shall be taxed u/s 33(Other Source)

Mr. A shall satisfy discharge of tax liability on dividend income with the TDS evidence from the company. Loss under Capital Gain can be set off against income under same head in same year u/s 37 or to be carried forward u/s 40.

The claim of loss under Capital gain can be taken in the year in which affairs of the winding up are complete.



### Answer to Question No. 3(c)

- [1] Company is not liable to capital gain tax on the distributions of assets to the shareholders upon liquidation. Gains made by the liquidator on sale of company's assets with the object of proceeds distribution to the shareholders are assessable in company. Company (Liquidator) is liable to comply with TDS as applicable u/s 54 of the Ordinance on the distribution of dividend, if any, upon liquidation.
- [2] Mr. A got consideration of capital assets for taka 54,00,000/= net from ABC Ltd. upon liquidation based on the market value on distribution.

This distribution of capital assets resulted into a capital loss taka 11,00,000 in the hands of Mr. A. Mr. A entitles right to claim set off and carry forward of this loss under Capital Gain. He subsequently reached an agreement to sell these assets to a buyer for taka 62,00,000.

Difference of market value of capital assets received from ABC Ltd. (Taka 54,00,000/=) and Sale price (62,00,000) is taka 8,00,000 excess.

Mr. A shall be subject to assessment for this excess (gain) of taka 8,00,000/=. He was taxed on the assets earlier based on market value.

Mr. A can set off earlier loss under Capital Gain (taka 11,00,000) against this Capital Gain of taka 8,00,000/=. As the carry-forward loss is higher than the gain, the net effect is still a carrying loss under Capital Gain. So, no tax on gain of taka 8,00,000/=. Mr. A should file tax return, get assessed and obtain clearance. Remittance of the tax-cleared proceeds is subject to Central Bank permission.

### **Question No. 4**

- a) You are a professional practitioner where VAT practice makes an impression. You are supposed to peruse new VAT law and stay tuned to the on-going talks in media and meetings between NBR and Trade Bodies involving Govt's determination to introduce new VAT Act 2012 from July 01, 2017.
- b) Your client, Trims Ltd. involves in exports and local trading. Balance Sheet of Trims Ltd. as at 30.06.2016 shows a 'VAT Current Account' debit balance taka 50,000. VAT-18 stands agreed with Balance Sheet of the company. Formatted columns of VAT Account Current (Form VAT 18): Sl, Date, Description, Purchase/Sales book ref., Treasury Deposit, VAT receivable, VAT payable, Balance, Remarks. Transactions in July 2016:
- VAT deposit taka 50,000 on July 01.
  - Sales (local) taka 200,000 excluding VAT on July 05.
  - Sales (exports) to A category factory in Savar EPZ taka 500,000/=
  - Sold goods returned worth taka 50,000 on July 15.
  - Purchase goods taka 100,000 excluding VAT July 20. Purchase return 50,000 excluding VAT same date.
  - Sales goods taka 450,000 excl VAT July 25. Treasury deposit same day 50,000.
  - Goods sold taka 50,000 July 28 but customer withheld VAT taka 7500 when paying to Trims Ltd.
- Trims Ltd. delivered goods Tk 100,000 to a Singapore-bound ship at Chittagong Port on July 29.
- c) Trims Ltd. needs to pay honorarium to the members of its tender evaluate committee. But they are not sure as to whether VAT needs to be deducted at source.
- d) As an ICAB member, you are a VAT adviser to many large companies. You know about Panama papers leaks news story which put selected names of Bangladeshi under spotlight. One of your VAT clients name was seen in that list, truth of the report unconfirmed. Although there are legitimate ways of using tax havens, most of what has been going on is about hiding true owners, the origin of the money and avoiding tax thereon. VAT evasion is one of the crude tools of money launderers. You are in the center stage of a sensitive practice.



**Requirements:**

- Specify five salient changes supposed to be coming up in new VAT law from July 2017.
- Using the data in 4(ii) above, draw a VAT Current Account (VAT 18) for Trims Ltd. for the month of July, 2016.
- Advise if Trims Ltd. is required to deduct VAT at source while paying such honorarium
- Evaluate any professional and ethical issues for yourself and your firm arising from the news story about Panama paper leaks. Set out the actions that you and your firm should take.

**Marks: [5+10+6+5] =26****Answer to Question No. 4 (a)**

The new VAT law, which was passed by the Parliament in 2012, is expected to be effective from July 2017. Major changes over the existing law are as follows:

- Universal VAT Rate:** There will be a universal VAT rate which may be 15% or lower. Presently there are many VAT rates (15%, truncated base, rates based on tariff value etc.)
- Threshold for registration and no Package VAT:** Annual turnover of 30 lacs is expected to be fixed for goods and services to have no VAT and thereby no VAT registration. That is, annual turnover below 30 lacs shall attract no VAT. Annual Turnover tax threshold is expected to be raised from taka 80. There will be no package VAT under the new law.
- No Price Declaration:** Price declaration for goods is expected to cease.
- Deduction of VAT at source:** Except for private limited companies, VAT deduction will not be applicable.
- Input VAT Rebate:** 100% input VAT rebate can be taken by assessee.

**Answer to Question No. 4 (b)**

Trims Limited: VAT CURRENT ACCOUNT (Form VAT - 18), Rule 22(1)

VAT Registration No.....

SL	Date	Description	Purchase/ Sale ref	Treasury Dep	VAT Receivable	VAT Payable	Balance
1	01.07.16	Opening balance					50,000
2	01.07.16	Treasury deposit	Challan	50,000			100,000
3	05.07.16	Sales(local)	S.B			30,000	70,000
4	11.07.16	Sales(exports, zero VAT)	S.B			-	70,000
5	15.07.16	Sales return	DN		7,500		77,500
6	20.07.16	Purchase	P.B		15,000		92,500
7	20.07.16	Purchase return	CN			7,500	85,00
8	25.07.16	Sales	S.B			67,500	17,500
9	25.07.16	Treasury deposit	Challan	50,000			67,500
10	28.07.16	Sales	VAT Challan			7,500	60,000
11	29.07.16	Sale to Outer Ship(zero VA	S.B			0	60,000
		<b>TOTAL FOR THE MON</b>		<b>100,000</b>	<b>22,500</b>	<b>112,500</b>	<b>60,000</b>

Closing Balance of VAT Current Account at the end of July 2016 is Taka 60,000 Debit. Trims Ltd. May claim VAT of Tk. 7,500 as treasury deposit after obtaining the treasury challan in support of the Vat DEDUCTION AT SOURCE FROM ITS CUSTOMER. However, as per the general order, VAT should not be deducted at source from a supplier who also manufactures the same. As such they should negotiate the same with the customers.



#### **Answer to Question No. 4 (c)**

As per SRO, VAT deduction at source is applicable on remuneration of board members. The person involved in the tender evaluation committee renders personalized services which is exempt from VAT as per the 2<sup>nd</sup> schedule of VAT Act, 1991. As such VAT is not deductible from remuneration as per VAT Act, 1991

#### **Answer to Question No. 4 (d)**

Panama paper leaks story is all about sheltering of assets secretly at offshore tax heavens. Offshore tax shelters may be legal, but the ethicality of using them to eliminate taxes is highly irregular. One my client name is on alleged list of names. I shall maintain that client be requested to fully investigate the alleged story to confirm its truth. I see no connection of myself and my firm with such alleged leak story naming my client. However I find this as an alert signal for me and my firm to reposition the way of client dealing. I see that two major fundamental ethical principles 'Professional behavior' and 'confidentiality' are likely to be impaired at allegation like panama paper leaks. 'Familiarity threats' and 'self-interest threat' are likely to crop up in such circumstances as the leak story got in wider media. The news story obliges me to review my and my firm's conduct at clients to examine if our conduct does discredit the profession. I have also examined if the leak story pops up any threats to our compliance to these principles. I am a Professional Accountant in Public practice. As I am not connected whatsoever with the story linking a VAT client, I do not see any significant threat that may impair those fundamental principles.

As action steps, I shall (i) meet client management and discuss with him the leak story linking his name and for further investigation, (ii) advise client to engage a lawyer to deal with the alleged story, (iii) request client in writing to arrange training for the key staff on money laundering and cross-border transactions, (iv) request client in writing to introduce a Code of Conduct for the employees. If the allegation is found true, I would elect to distance from the service of this client. I shall review my Firm's Code of Conduct to make that current with time, shall schedule training for the Firm's staff on money laundering and code of conduct. Public interest must be upheld by us as ICAB member. Accountants must not forsake ethical responsibilities when working for wealthy clients. We must not let lose privilege of our self-regulation.



**TAXATION – II**  
**Suggested Answer**  
**Nov-Dec 2017**

**Question No. 1**

Silkway Group has two companies, Silkway Toiletries Ltd. (STL), an unlisted public limited company in toiletries manufacturing business and Silkway Chemicals Ltd. (SCL) (subsidiary of STL with 80% equity). The subsidiary operates a factory in old Dhaka, closed due to order of the Directorate of Environment not to run chemical factory in city area.

- (a) Silkway Toiletries Ltd. filed its tax return showing total revenue of taka five crore; profit taka 5,000,000 for the year ended on 30.06.2017 after debits and credits of the items revealed from the examination of accounts of the company as follows:

**DEBITS**

- 1) Depreciation on revaluation of assets Taka 100,000/=
- 2) COGS includes (a) taka 1,000,000 for direct materials bought from supplier on which tax was not deducted u/s 52 and Rule 16, (b) taka 500,000 paid to an enlisted tailor for supply of uniforms for production floor workers on which tax was not deducted u/s 52 and Rule 16.
- 3) Insurance premium paid to BGIC taka 250,000/ on 02.02.2017 without tds.
- 4) Paid taka 200,000 to Grameen phone Ltd. for supply of mobile phone sets without tds.
- 5) Provision for loss in subsidiary – Taka 500,000/=
- 6) Written off taka 50,000 representing the value of machinery missing from physical verification.
- 7) Exchange loss linked to the income from foreign agent due to delay in remitting the income.
- 8) Interest taka 100,000/= on overdraft to pay interest for failure to pay advance tax.
- 9) Written off taka 200,000/= long due from a missing party who was advanced this sum for raw material.
- 10) Commission paid taka 250,000/= to a bank for forward contract (dated 25.06.17) to hedge each risk involving settlement of import L/C dues due after a quarter.
- 11) Taka 500,000/= on a/c of free samples of finished goods given to distributors (limited 1% of turnover)
- 12) Trade discounts to customers taka 1,000,000/= and distributors commission paid taka 500,000/=.

**CREDITS**

- 1) Dividend taka 100,000/= from investment in an approved Alternative Investment Fund
- 2) Capital gain on sale of fixed assets taka 100,000/=
- 3) Interest earned on security deposit at bank in Kenya, taka eqvt 100,000/=.



## OTHER INFORMATION

- 1) Unabsorbed depreciation brought forward from assessment year 2016-2017 taka two lacs.
- 2) Return filed for the income y/e 30.06.17 on 30.09.2017; assessment completed on 30.11.17. Company's assessed income in the previous income year was taka 6,000,000/=.
- 3) For the reported income year, the opening stock of toiletries was valued at taka 35 lacs and closing stock of toiletries raw materials at taka 15 lacs. These opening stock and closing stock were wrongly overvalued and undervalued respectively by 5% and 10%.
- 4) Tax was duly deducted from office rent payment of taka 500,000/= but did not deposit to treasury for about six months.
- 5) A Chinese supplier breached L/C terms to supply toiletries machineries on order. Company received a liquidated damage for this eqvt taka 1,500,000/= which has not been credited to P&L. This machinery L/C was done under 50% margin (taka 75 lacs) with a bank, funded by a separate short term loan for same amount at 10% p.a. Company paid interest on such loan taka five lacs and charged to revenue.
- 6) Company acquired a delivery van under lease finance from a NBFI. Registration was done in the name of the Company. Depreciation charged taka 400,000/=.
- 7) Company made exports of selected item of toiletries to Africa through an agent in Kenya. Under permission from Bangladesh Bank, company made an interest bearing security deposit with the agent's bank in Kenya to cover product warranty in which interest earned was taka 100,000/=(tax paid thereon in Kenya, taka eqvt 15,000/= at 15%). Customers total tds including tds by bank on exports realization taka 700,000/=.
- 8) Company paid advance tax taka 500,000/= during the income year.
- (b) Silkway Toiletries Ltd. (STL) and its Managing Director own Silkway Chemical Ltd. for 80% and 20% equity respectively. In the attempt to consolidate the business in the face of closure of the Chemical subsidiary, the shareholders of Silkway Chemical Ltd. resolved to wind up the subsidiary voluntarily vide EGM dated 31.08.2017. STL and its MD acquired shares of SCL four years ago at 10% premium over the par value. Factory land was registered to the shareholders at market value. Liquidator closed his account on 30.11.17 having paid off all liabilities as they are and disposed of all assets. Expenses incurred during winding up process taka 100,000/= Net assets on EGM date prior to the distribution to shareholders were as follows:

## ASSETS

Machineries net taka 500,000 (Original cost taka 4,500,000, Sold by Liquidator taka 300,000). Factory land taka 5,000,000 (market value taka 8,500,000/=). Cash and Bank balance taka 1,500,000. Due from Silkway Toiletries Ltd. taka 1,000,000 against chemical sale(r/m for toiletries)

## LIABILITIES

Share capital is taka 5,000,000 (taka 100 per share). General Reserve is taka 500,000. P&L Appropriation is taka 1,500,000. Payables to employees taka 500,000/=. VAT payable is taka 500,000.

## Requirements:

- i) Compute total income and tax liability of Silkway Toiletries Ltd separately, showing computation of excess or shortfall of advance tax and explanation for consequence. **[Marks: 20]**
- ii) Show distribution upon liquidation, tax implication on SCL and shareholders. **[Marks: 10]**



**Answer to the Question No. 1a.**

**Silkway Toiletries Ltd.**

**Income y/e 30.06.2017. [AY 2017-18]**

**Computation of Total Income, Tax Liability and Others**

		TAKA
<b>Income from Business:</b>		
Shown Net profit		5,000,000
<u>Less: Non-business income for separate consideration</u>		
	<b>TAKA</b>	
(1)Capital gain	100,000	
(2)Dividend from Alternative Investment Fund	100,000	
(3)Interest from foreign bank deposit in Kenya	100,000	
		(300,000)
<u>Add: Inadmissible expenses</u>		
(1)Dep. not allowable on revaluated assets	100,000	
(2)Paid to enlisted contractual tailor u/s 30(aa)	500,000	
(3)Paid to GP for mobile sets supply u/s 30(aa)	200,000	
(4)Provision for loss is not allowable exp. u/s 29	500,000	
(5)Machinery physically not found is not allowable u/s 29	50,000	
(6)Commission for hedging as it is not allowable exp. u/s 29	250,000	
(7)Office rent u/s 30(aa) as tds not deposited	500,000	
(8)Adjustment for overvaluation of stocks:		
Opening stock overvalued by 5%	166,667	
Closing stock undervalued by 10%	136,364	
		2,403,030
<b>Add:</b> Compensation received from a Chinese company not credited		1,500,000
<b>Less:</b> Unabsorbed depreciation - carried forward for set off		(200,000)
	<b>Business Income</b>	<b>8,403,030</b>
<b>Capital Gain</b>		100,000
<b>Income from Other Sources:</b>		
Dividend from AIF [note-11]	100,000	
Interest on foreign bank deposit [note-12]	100,000	
		200,000
<b>TOTAL INCOME</b>		<b>8,703,030</b>
<b><u>Tax calculation:</u></b>		
i) Tax on Business Income and interest income @35%		
35% on 8,503,030		2,976,061
ii) Tax on Capital Gain (15% on 100,000)		15,000
iii) Tax on dividend 20% on 100,000		20,000
<b>GROSS TAX LIABILITY</b>		<b>3,001,061</b>



**Less:**

i) AIT

ii) Tds

total tax paid

**NET TAX LIABILITY**

500,000

700,000

1,200,000

**1,801,061**

**Computation of simple interest for short payment of AIT:**

Gross Tax

3,001,061

75% of tax comes at

2,250,796

Total AIT

1,200,000

**Shortfall**

1,050,796

43,783

**10% interest on shortfall for 5 months**

**43,783**

**TOTAL TAX PLUS SIMPLE INT. DUE**

**1,844,844**

**Computation of Minimum Tax on gross receipts:**

Gross revenue

50,000,000

Capital gain

100,000

Other source income

200,000

**Gross Receipts**

50,300,000

Minimum tax @ 0.60% on gross receipts

301,800

**Notes:**

[1] **50% income rebate** is applicable on export as per 6<sup>th</sup> schedule but as the export figure is not given in the question so it is not possible to workout.

[2] **Direct raw material purchase** is not subject to tds and that's why not disallowed u/s 30(aa)

[3] **Insurance premium** paid to Insurance company is not subject to tds and that's why not disallowed u/s 30(aa)

[4] **Exchange loss** is allowable business loss as per section 29, so not disallowed.

[5] **Bad debt Tk.2,00,000/** (dues from missing supplier) is in connection with business, so allowed.

[6] **Depreciation on leasehold vehicles** is allowable as per Third Schedule as it is **finance lease**. The indication is that it was registered in the name of the company.

[7] **Free sample exp.** is within the limit prescribed at Rule-65, so nothing is disallowed from here.

[8] **Interest on overdraft** is allowable expenditure as per section 29 as business expenditure

[9] **Trade discount Tk.10,00,000 and distribution commission Tk.5,00,000/** is allowable expenditure assuming that source tax was deducted properly from distributorship commission.

[10] **Office rent** fully disallowed assuming that source tax was not deposited before assessment.

[11] **Dividend from Alternative Investment Fund (AIF)** is taxable @ 20%. It should be noted here that income of the fund itself is tax-free as per 6<sup>th</sup> Schedule (Part-A) Para-54, not dividend income in the hand of shareholder.

[12] **About interest income from Kenya:** As there is no DTAA between Bangladesh and Kenya so no foreign tax credit will be allowed as per section 145 as NBR not yet prescribed any rules in this behalf.



**Answer to the Question No. 1b.****Silkway Chemical Limited****Distribution of assets to Shareholders upon Liquidation**

	Amount in TAKA
<b>INFLOW:</b>	
Machinery sold	300,000
Received from Silkway Toiletries	1,000,000
Cash and Bank Balance	1,500,000
	<b>2,800,000</b>
<b>OUTFLOW:</b>	
Expense	100,000
VAT paid	500,000
Payable settled	500,000
	<b>1,100,000</b>
<b>NET cash Available for Distribution</b>	<b>1,700,000</b>

**Distribution to Shareholders:**

	Total	Silkway Toiletries Ltd.	MD of STL
<b>Ownership</b>		80%	20%
Net Fund	1,700,000	1,360,000	340,000
Factory land	8,500,000	6,800,000	1,700,000
	<b>10,200,000</b>	<b>8,160,000</b>	<b>2,040,000</b>

**NOTE:**

Machinery sold for 300,000/ against WDV 500,000/. Therefore, revenue loss taka 200,000/(3<sup>rd</sup> Sch (para-10) Factory land transferred at market value of Tk. 85,00,000/= against COA 50,00,000/= 35,00,000/ is capital gains on Silkway Chemical Limited upon distribution of assets upon liquidation.

	Total	Silkway Toiletries Ltd.	MD of STL
Amount of share capital in the company	5,000,000	4,000,000	1,000,000
No. of shares at taka 100 each	<b>50,000</b>	40,000	10,000
Cost of share to the shareholders at 10% premium		4,400,000	1,100,000

**Deemed Dividend u/s 2(26) on the distribution:**

Total assets value distributed to the shareholders	10,200,000	8,160,000	2,040,000
Less: Dimmed DIV upto the accumulated profits	2,000,000	1,600,000	400,000
Balance after deemed dividend	8,200,000	6,560,000	1,640,000
Less: Share investment value(COA u/s 32(2)(i)		4,400,000	1,100,000
Balance -- Capital Gain u/s 31,32 in the hands S/H		2,160,000	540,000

**SUMMARY OF DISTRIBUTION TO SHAREHOLDERS:**

Distribution to the extent of DEEMED DIVIDEND	1,600,000	400,000
Balance Distribution	6,560,000	1,640,000
Of which, Capital Gain	2,160,000	540,000



**TDS on Dividend distribution by Sikway Chemical Ltd.**

Rate of tds on company and individual	20%	10%
TDS amount on deemed dividend	320,000	40,000
Net dividend to shareholders	1,280,000	360,000

**Question No. 2**

ABC & Co. ("Firm"), Chartered Accountants, acts as tax consultant of XYZ Ltd. ("Company"), a private limited company incorporated in Bangladesh. The Company is engaged in the business of yarn dyeing.

You are a Chartered Accountant and working as Tax Partner of the Firm. Assessment and appeal proceedings of the Company for the assessment year 2013-2014 are complete. There were cross appeals before the taxes appellate tribunal for AY 2013-2014 relating to addition of current liabilities to taxable income and application of 35% tax rate on business income from sale of fixed assets.

The assessment order analyzed the components of current liabilities that consist of working capital loan, term loan, lease finance, trade creditors and liabilities for expenses and are disclosed under separate notes to the audited financial statements. The sale of fixed assets was also recorded in detail.

The Deputy Commissioner of Taxes ("DCT") added back taka 20,000,000/= out of current liabilities and the Commissioner of Taxes (Appeals) reduced the same to Taka 15,000,000/=. In the cross appeal, the Taxes Appellate Tribunal further reduced the addition under current liabilities to Taka 5,00,000/=.

Subsequently the Director General of Inspection (Taxes) called for the file and reviewed the same where he did not find supporting documents as regards the appealed issues. Being advised by the office of the Director General of Inspection (Taxes), the DCT reopened the case and issued notice under Section 93 of the ITO, 1984, on the ground that tax was evaded by non-submission of evidences.

**Requirement:**

Prepare a reply to the notice of the DCT considering the grounds for reopening the case and applicability of Section 93 of the ITO, 1984, for XYZ Ltd. **[Marks: 10]**

**Answer to the Question No. 2:**

The Deputy Commissioner of Taxes  
Taxes Circle – Taxes Zone –  
Dhaka, Bangladesh  
05 December 2017

**Dear Sir:**

**Request to Cancel the Proceedings of Income Tax Cases Reopened under section 93 of the Income Tax Ordinance, 1984, ("ITO, 1984") for the Assessment Year 2013-2014**

**Assessee: XYZ Ltd.**

Please refer to the subject mentioned above. As regards income tax case reopened under section 93 of the ITO, 1984, for the assessment year 2013-2014 we would like to offer following explanations/statements/documents/information:

**Business Income from Sale of Fixed Assets:**

The DCT recorded the detailed information on sale of assets upon examination of all the documents and information submitted in support of the said transactions and computed income/(loss) from sale of assets. He also confirmed that the assessee submitted information on purchase price, sales prices, accumulated depreciation, and computation of income and minutes of the meeting of the board of directors relating to sale of assets.



Section 93 is not applicable in the instant case as non-submission of evidences relating to sale of assets is fabrication of information and the DCT acted on suspect, surmise and conjecture and he is just on a fishing expedition.

Where the decisions of the appellate authorities are there and if the DCT is aggrieved by the decisions of the appellate authorities, he had the option to file appeal to the higher appellate authority or reference application to the High Court Division, as the case may be, in accordance with the provisions of the ITO, 1984. Reopening of the case on the appealed grounds without going to higher appellate authority or reference application to the High Court Division is violation of income tax law and against the natural justice.

#### **Current Liabilities:**

The DCT examined the documents submitted in support of current liabilities of Tk. .... disclosed under separate notes to the audited financial statements and he recorded the same in the assessment order. Upon examination of submitted documents and information, he added back Tk. 20,00,000/=.

Section 93 is not applicable in the instant case as the audited financial statements clearly disclosed information on current liabilities and the assessee submitted all supporting documents relating to current liabilities. In reopening the cases on this ground, the DCT acted on suspect, surmise and conjecture and he is just on a fishing expedition. Non-submission of evidences relating to heads under current liabilities as reasoning for reopening the cases is completely vague, fallacious and distortion of information.

Where the decisions of the appellate authorities are there and if the DCT is aggrieved by the decisions of the appellate authorities, he had the option to file appeal to the higher appellate authority or reference application to the High Court Division, as the case may be, in accordance with the provisions of the ITO, 1984. Reopening of the case on the appealed grounds without going to higher appellate authority or reference application to the High Court Division is violation of income tax law and against the natural justice.

It is notable that once the DCT examined and decided on current liabilities as mentioned in the assessment orders along with notes, he verified all the heads under current liabilities such as Trade Creditors, Working Capital, Accounts Payable, Liabilities for Expenses, Term Loans, etc. The orders from the appellate authorities provided their decisions in the like manner.

#### **Applicability of section 93 of the ITO, 1984:**

The following conditions should be studied for which any sum payable by an assessee under the ITO, 1984, shall be deemed to have escaped payment as referred to in section 93 of the ITO, 1984:

Sl #	Conditions
i.	The income or a part thereof has escaped assessment
ii.	The income has been understated
iii.	Excessive loss, deduction, allowance or relief in the return has been claimed
iv.	The liability of tax or any other amount payable under the ITO, 1984, has been shown or computed lower by concealment or misreporting of any income or by concealment or misreporting of any assets, expenditure or any other particulars in a statement submitted under section 80
v.	Income chargeable to tax has been under-assessed, or income has been assessed at a lower than due tax rate
vi.	Income that is subject to tax has been made the subject of tax exemption
vii.	Income has been made the subject of excessive relief, or excessive loss or depreciation allowance or any other allowance under the ITO, 1984, has been computed



viii.	A tax or an amount, payable under the ITO, 1984, has been computed or paid lower than due amount by reason of lower base
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In light of the above, we would earnestly request you to withdraw the proceedings of income tax case reopened under section 93 of the ITO, 1984, for the sake of upholding the rule of law and natural justice.

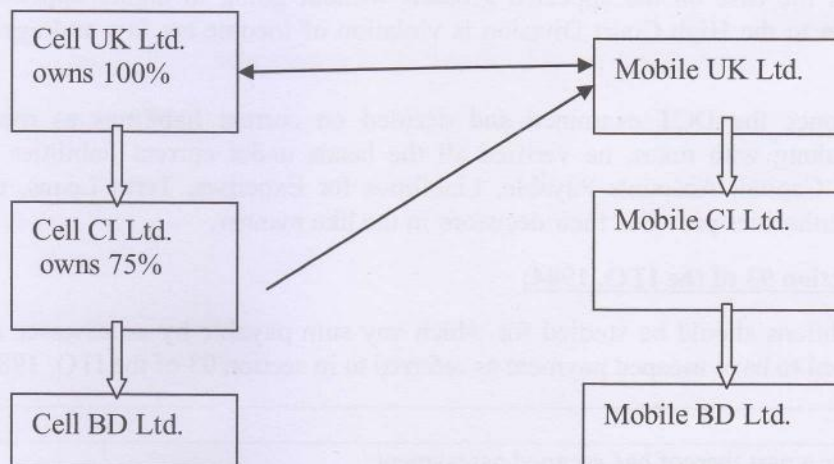
Yours faithfully,

### **Question No. 3**

Tax heavens or Offshore Financial Centers (OFC) are financial jurisdictions outside the regulations of one's own nation used by companies and individuals to lower their taxes on profits and assets. They are often small islands, such as, Cayman Island, mostly in the Caribbean. After 'panama paper leaks in 2016, now hit the headlines are 'Paradise Papers' which contain millions of documents reportedly from offshore legal and corporate service providers. Names are up in the media in reference to Paradise papers including name of an accounting firm which allegedly worked for dodging assessee. You, a CA, involve in cross-country tax practice.

One of your clients, 'Cell BD Ltd', a Bangladeshi public limited JV company, is a mobile operator in Bangladesh. Cell BD Ltd. is owned 75% by 'Cell CI Ltd.', a Cayman Island (tax heaven) company which is 100% owned by Cell UK Ltd. As BTRC stopped issuing new license, Mobile UK Ltd., which wants to enter into Bangladesh market hammered out a strategic investment deal with Cell UK Ltd. to take control in Cell BD Ltd. through 'Cell CI Ltd'

#### **Pre-Transfer Structure and Post-Transfer Structure**



Share capital of 'Cell CI Ltd.' is US\$1.0 million. 'Mobile UK Ltd.' bought the entire share of Cell CI Ltd. for US\$2.0 million from Cell UK Ltd. Mobile UK Ltd. made full payment to Cell UK Ltd. in UK for the transfer and then changed the name of Cell CI Ltd. to 'Mobile CI Ltd.' in Cayman Island and from Cell BD Ltd. to Mobile BD Ltd. in Bangladesh. Cell UK Ltd. made a huge gain on the transfer which is in public through media.

You have filed tax return for your client (Cell BD Ltd.) with the audited accounts for the relevant income year which depicts information about the ownership change and subsequent name change. Tax Department issued a show-cause notice to Mobile UK Ltd and to your client to explain why tax was not withheld u/s 56 on payments made by Mobile UK Ltd. to Cell UK Ltd. in relation to the share transfer in



Cell CI Ltd. Tax department contended that the share transfer in Cell CI Ltd. derived its value from assets in Cell BD Ltd. and thus it implicated a connection u/s 18(2). Tax Department argued, the controlling shareholding obtained by Mobile UK Ltd. in Cell BD Ltd.(75%) has its situs in Bangladesh and, therefore, the capital gain arising on this share transfer outside Bangladesh is liable to tax in Bangladesh as an 'indirect transfer'. Mobile UK Ltd. is considering a HC writ in Bangladesh challenging tax department's demand and approached you, as tax lawyer of their Bangladesh subsidiary, for technical tax views.

**Requirements:**

- a. Brief your views about the legality of investment in tax heavens by Bangladesh resident assessee having overseas operations in reference to IT Ordinance. What are the ethical implications of a Professional Accountant in practice and your position if approached by such a client? **[Marks: 5]**
- b. Consider share transfer case of Cell CI Ltd. Write technical inputs in reference to applicable tax provisions, tax treaty and case decision, if any, giving your views on the validity of tax demand on such share transfer. **[Marks: 5]**

**Answer to the Question No. 3a:**

An OFC (Offshore Financial Centre) or tax heaven is a country or also just a part of a country that offers low tax rates or even no taxes at all for foreign investors. Disclosure and information exchange with other countries are limited. If Bangladeshi resident assessee, having foreign income, duly taxed in source country and disclosed the same fully under the concept of scope of world income u/s 17 in Bangladesh and invests part of his such taxed income in tax heaven country, it may not be termed as an illegal conduct.

As Bangladesh Foreign Exchange regulations generally prohibit transfer of fund out of Bangladesh, investment in OFCs or tax heavens from Bangladesh shall be generally illegal. If any resident assessee uses OFCs to hide untaxed income, it's an utter illegal conduct. Leaks through Panama papers and now Paradise papers generated extreme heat globally naming corporations and individuals of high profile. These leaks reveal that so-called tax heavens, though may not be illegal, are being used for illegal purpose and they tend to offer laws and measures that can be used for tax evasion.

Ethical implication for a professional accountant in practice is huge and specific when dealing with a client having stake or intention to invest in tax heavens. As the activities involving OFCs are increasingly being proved illegal, accountant must take special care to stay off those sensitive clients. Dealing with such clients brings threats to major fundamental ethical principles like Integrity, confidentiality and professional behavior.

We cannot do anything that discredit our professional and contravene laws and regulations (like tax law, foreign exchange law). Self-interest threat, familiarity threat and intimidation threats are prominent in this kind of client relationship and strong safeguards to mitigate these threats are not much there. Therefore, I shall resign from the service to such client if my consultations to stay legal seem to be failing.

**Answer to the Question No. 3b:**

Tax Department issued notice to my assessee and its grandfather holding company to explain why tax was not withheld u/s 56 on payments made by Mobile UK Ltd. to Cell UK Ltd. for transfer of 100% shares in Cell CI Ltd. which holds 75% of Mobile BD Ltd. Tax Dept contended that the share transfer in Cell CI Ltd. derived its value from assets in Cell BD Ltd. and thus it implicated a connection u/s 18(2).

In my view, tax department's notice stems from a misunderstanding to differentiate between 'sale of company shares' and 'sale of company assets' of the company. Ownership of share of a company does not mean ownership of assets of that company. The transfer of shares of one non-resident company (Cell



UK Ltd.) to another non-resident company (Mobile UK Ltd.) did not result in the transfer of any assets of Cell BD Ltd. in Bangladesh. 'Share sale' is one of the many different restructuring strategies adopted by corporate managements. It cannot be argued that sale of shares in UK resulted in capital gain in Bangladesh which binds Mobile UK Ltd. to deduct tax at source under Bangladesh tax law.

Section 18(2) provides for 'income accruing or arising directly or indirectly through or from transfer of capital assets in Bangladesh' but Cell UK Ltd. did not make any 'indirect transfer' of any capital assets in Bangladesh. By the transfer of Cell UK Share to Mobile UK, there has not been any transfer of the assets of Cell BD Ltd. As 18(2) does not invoke, application of section 56 does not arise at all. These sections shall not attract and, therefore, gains arising to a foreign company from transfer of shares of a foreign holding company, which indirectly held equity interest in an Indian operating company would not be taxable (*Vodafone International Holdings BV vs. Union of India*, Supreme Court)

#### Question No. 4

Mr. PQ used to compute his income tax and prepare tax return on his own. While computing income tax for the assessment year 2017-18, he was confused about the computation and presentation of the tax collected at source on transfer of inherited property and at the time of import of goods. Therefore, he appointed XYZ & Co. ("Firm"), Chartered Accountants, for assisting him in computation of taxable income, tax liability and preparation of tax return. You are a Chartered Accountant and working as a tax consultant of the Firm. Mr. PQ sent you an email furnishing the following information on transfer of inherited property:

Particulars	Tk.
Tax Collected/Deducted at Source on transfer of property	10,000,000
Sale proceeds received in cash and by bank transfer	250,000,000

In addition, Mr. PQ also provided you with the following information on income and tax deducted at source relating to the assessment year 2017-18:

Particulars	Tk.
Remuneration as a member of the Board of Directors of a private limited company	6,000,000
Interest on fixed deposits	3,000,000
Income from dividend of a publicly listed company	1,000,000
Interest on savings instruments	1,500,000
Income from a mutual fund	500,000
Income from lease of vacant land	1,200,000

Taxes were deducted at source from remuneration, interest, dividend and lease money as per applicable rates. Mr. PQ imported goods of Tk.10,000,000/= during the income year 2016-17 and advance tax was collected at source amounting to Tk.500,000/= at import stage applying @5%. He made profit of Tk.3,000,000/= from import business in the same period.

Net wealth of Mr. PQ was computed at Tk.30,050,000/= as of 30 June 2017 which you should consider for computation of wealth surcharge. During the income year 2016-17, Tk.10,000,000/= was invested by him in acquisition of shares of companies listed on Dhaka Stock Exchange. He also invested Tk.1,000,000/= in DPS at a scheduled bank. He was 67 years old on 30 June 2017 and has been submitting return of income for last 20 years.

#### Requirements:

Write a reply to the email of Mr. PQ along with computations of the following:

- (i) Minimum tax on income from import business. [Marks: 5]
- (ii) Total taxable income from all sources and total tax liabilities. [Marks: 3]



(iii) Investment Tax Rebate.

[Marks: 6]

(iv) Wealth surcharge and Net Tax Payable.

[Marks: 4]

**Answer to the Question No. 4:**

**Email**

**To: PQ**

**From: XYZ & Co.**

**Date: 20 December 2017**

**Re: Assistance in computation of your taxable income and tax liability for the assessment year 2017-18**

Dear Mr PQ,

Thank you very much for the email dated 15 November 2017. I went through the information provided by you. We are providing you with the draft computations, as requested, below:

**Name of Assessee: PQ**

**Taxpayer's Identification Number :**

**Income Year: 2016-17**

**Assessment Year: 2017-18**

**Income Tax Computation**

**Sources fall under section 82C(2)(d) proviso (for which regular computation is not required):**

Particulars	Tax deducted/collected at source (Tk.)	Income (Tk.)
Transfer of property	10,000,000	250,000,000
Interest on savings instruments	75,000	1,500,000
	<b>10,075,000</b>	<b>251,500,000</b>

**Sources fall under section 82C(2)(b) (for which computation in regular manner is required):**

Particulars	Tax deducted/collected at source (Tk.)	Income (Tk.)
Import Business	500,000	3,000,000
	<b>500,000</b>	<b>3,000,000</b>

**Regular sources of income:**

Particulars	Tax deducted/collected at source (Tk.)	Gross Income (Taka)	Taxable Income (Taka)
<b>Income from Salary</b>			
Remuneration from the private limited company	1,345,000	6,000,000	6,000,000
<b>Sub-total: (i)</b>	<b>1,345,000</b>	<b>6,000,000</b>	<b>6,000,000</b>
<b>Other Income</b>			
Interest on fixed deposits	300,000	3,000,000	3,000,000
Income from dividend of publicly listed company	100,000	1,000,000	975,000



Income from mutual fund	-	500,000	475,000
Income from lease of land	60,000	1,200,000	1,200,000
<b>Sub total: (ii)</b>	<b>460,000</b>	<b>5,700,000</b>	<b>5,650,000</b>
<b>Total: (i) + (ii)</b>	<b>1,805,000</b>	<b>11,700,000</b>	<b>11,650,000</b>

**Tax on taxable Income from regular sources:**

Slabs	Taxable Income (Tk.)	Rate	Tax (Tk.)
First	300,000	0%	-
Next	400,000	10%	40,000
Next	500,000	15%	75,000
Next	600,000	20%	120,000
Next	3,000,000	25%	750,000
Balance	6,850,000	30%	2,055,000
<b>Total</b>	<b>11,650,000</b>		<b>3,040,000</b>

**(a) Computation of minimum tax liability for import business:**

Taxable income from regular sources	11,650,000
Income from import business computed in regular manner	3,000,000
	<b>14,650,000</b>

**Computation of applicable tax on sum of income from regular sources and income from import business:**

Slabs	Taxable Income (Tk.)	Rate	Tax (Tk.)
First	300,000	0%	-
Next	400,000	10%	40,000
Next	500,000	15%	75,000
Next	600,000	20%	120,000
Next	3,000,000	25%	750,000
Balance	9,850,000	30%	2,955,000
<b>Total</b>	<b>14,650,000</b>		<b>3,940,000</b>

Applicable tax on sum of income from regular sources and income from import business	3,940,000
<b>Less:</b> Tax applicable to income from regular sources	3,040,000
Tax liability for import business computed in regular manner and applying regular tax rate	900,000
Tax collected at source at import stage	500,000

Since, regular tax liability from import business is higher than tax collected/deducted at source, so Tk. 900,000/= will be minimum tax on income from import business

**(b) Computation of total taxable income from all sources and total tax liabilities:**

Taxable Income	Tax Liabilities
----------------	-----------------



	(Tk.)	(Tk.)
Taxable income from regular sources of income A	11,650,000	3,040,000
Income from sources fall under section 82C (for which computation in regular manner is required)	3,000,000	900,000
Income from sources fall under section 82C (for which computation in regular manner is not required)	251,500,000	10,075,000
<b>Total</b>	<b>266,150,000</b>	<b>14,015,000</b>

(iii) Investment Allowance & Tax Rebate:

(a) Actual Investment made during the income year:

Shares of companies listed on Dhaka Stock Exchange

DPS (Maximum Tk. 60,000)

(b) 25% of (Total Taxable Income-Income u/s 82C-Exempted Income-Income subject to reduced tax rate)

(c) Maximum Limit

(d) Eligible Amount for Tax Rebate: the lowest of (a), (b) and (c)

Tk.

Tk.

10,000,000
10,060,000
29,12,500
15,000,000
<b>29,12,500</b>

**Investment Tax Rebate:**

Tk	250,000
Tk	500,000
Tk	21,62,500
	<b>29,12,500</b>

15%  
12%  
10%

**B**

37,500
60,000
2,16,250

**3,13,750**

Total Income Tax Payable (from regular sources)

**C=A-B**

**27,26,250**

Income Tax (from section 82C sources)

**D**

**10,975,000**

Surcharge @ 30%

**E=(C+D) X 30%**

**41,10,375**

Total Income Tax & Surcharge

**F=C+D+E**

**1,50,85,375**

Tax collected/deducted at source

Tax deducted/collected from sources fall under section 82C (for which computation in regular manner is required):

Tax deducted/collected from sources fall under section 82C (for which computation in regular manner is not required):

Tax deducted/collected from regular sources

Total Tax deducted/collected from all sources

**G**

500,000
10,075,000
1,805,000
<b>12,380,000</b>

**Balance Tax Payable**

**H=F-G**

**4,502,450**

Surcharge has been computed on the basis of information provided by you on net wealth as of 30 June 2017. We could not compute closing net wealth for the assessment year 2017-18 due to lack of necessary information.

Should you have any queries in this regard, please feel free to contact us.

Best wishes and regards,

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### **Question No. 5**

ABC Ltd. is a Bangladeshi RMG company, having its factory in Jessore, in which XYZ Inc.; a UK based company has 28% shareholding and voting power. The management of these two companies is going to enter into an agreement on the following transactions:

- a) ABC Ltd. will sell 1,000,000 pieces of T-shirts @ \$2 per T-shirt to XYZ Inc. This type of T-shirts is generally sold to unrelated parties @ \$3 per T-shirt.
- b) ABC Ltd. will borrow \$200,000 from a foreign lender based on the guarantee of XYZ Inc. For this, ABC Ltd. will pay \$10,000 as guarantee fee to XYZ Inc. To an unrelated party for the same amount of loan, XYZ Inc. collects \$7000 as guarantee fee.
- c) ABC Ltd. will pay \$15,000 to XYZ Inc. for getting various potential customers details to improve its business. XYZ Inc. provides the same services to unrelated parties for \$10,000.
- d) ABC Ltd. will procure used machineries from XYZ Inc. costing \$150,000 which will be paid in four installments.

Furthermore, in the current year, ABC Ltd. will need to write-off receivable amount from XYZ Ltd. amounting to Tk. 1,000,000.

MAT & Co, Chartered Accountants, acts as tax consultant of ABC Ltd. You are a Chartered Accountant and currently working as Director of Transfer Pricing Department of MAT & Co. The CFO of ABC Ltd. requested you to provide your opinion in the report form on the above matters, which will assist ABC Ltd. to get an extensive idea on tax exposure according to Bangladesh Tax Law. On the basis of your report, ABC Ltd. will make their tax planning and determine their decision. [Consider 1\$= BDT 78]

### **Requirements:**

Your report should cover the following issues:

- a. Brief discussion on area of implication of TP regulations. **[Marks: 6]**
- b. Elaboration of TP aspects on the above issues, demonstrating financial impact of tax exposure **[Marks: 6]**

### **Answer to the Question No. 5:**

The Managing Director  
ABC Ltd.

18 December 2017

Dear Sir:

### **Report on the queries based on Transfer Pricing Provisions**

Please refer to the subject mentioned above and your request providing professional opinion(s) on the various issue(s) raised therein. As requested, we are providing below our professional opinion:

#### **Requirement # i**

Provisions relating to TP as mentioned in Chapter XIA, Section 107A to 107J of the ITO, 1984, are applicable from the income year 2014-15. The provisions relating to TP has been summarized below:

TP refers to the pricing of international transactions between two associated enterprises. Due to the special relationship between related parties, the transfer price may be different than the price that would



have been agreed between unrelated parties. A price between unrelated parties is known as the “arm’s length” price. The provisions of TP are applicable only if:

- There are two or more enterprises
- The enterprises are Associated enterprises
- The enterprises enter into an international transaction

Method of TP: There are five methods for TP:

- comparable uncontrolled price method;
- resale price method;
- cost plus method;
- profit split method;
- transactional net margin method;

A statement of international transactions is required to be submitted as per section 107EE. The DCT may require a report signed by a Chartered Accountant or a Cost and Management Accountant. There is also penal provisions for non-compliance regarding TP provisions.

### Requirement # ii

ABC Ltd., the Bangladeshi Company and XYZ Inc., the UK based company are deemed to be associated enterprises as per section 107A(2), as XYZ Inc. holds shares carrying not less than 25% of the voting power of ABC Ltd. As per section 107A(5), the transactions entered into between these two companies for sale of product, lending or guarantee and provisions of services are included within the meaning of international transactions.

Accordingly, provisions of transfer pricing would be attracted and the income arising from such international transactions have to be computed having regard to arm's length price. In this case from the information given, the arm's length price has to be determined taking the **comparable uncontrolled price method** to be the most appropriate method.

Amount by which total income of ABC Ltd. is enhanced on account of adjustment in the value of international transactions:		Taka
a)	Difference in price of T-shirt @\$ 1 each for 1,000,000 pieces sold to XYZ Inc. (\$ 1 X 1,000,000 X 78)	78,000,000
b)	Difference for excess payment of guarantee fee to XYZ Inc. for loan borrowed from foreign lender ( \$ 3000 X 78)	234,000
c)	Difference for excess payment for services to XYZ Inc. ( \$ 5000 X 78)	390,000
d)	Bad debt written off: it will be admissible expenditures only when proper supporting is presented, such as, supporting related legal action taken for recovery, board resolution, etc. No impact under TP regulations.	-
<b>Total</b>		<b>78,624,000</b>

Amount of Tk. 78,624,000 will be added back to the taxable income under section 107C(5) of the ITO, 1984.

Should you have any query in this regard, feel free to contact us.

Yours faithfully,

MAT & Co.  
Chartered Accountants



### **Question No. 6**

(a) You are a VAT adviser to PQ Ltd. ("Company"). A taxable service provider is unwilling to issue a valid VAT invoice (Mushak-11) and has asked the Company to deduct VAT at source from the amount payable thereto. The Chief Financial Officer ("CFO") of the Company has requested you to discuss the issue in more detail at the next meeting.

#### **Requirements:**

Prepare a note for discussion at the meeting with the CFO of the Company, addressing the consequence of entering into a transaction with a registered person who/which does not issue a valid VAT invoice (Mushak-11). **[Marks: 5]**

(b) Electric bike is a bicycle powered by lightweight lithium-ion battery which has gained popularity in many countries. A motor cycle importer imported 100 pieces of electric bicycle to try first time in Bangladesh market. Cost per piece including VAT at import point 100 US dollar. He incurred 15% import VAT. The importer incurred C&F charges taka 50,000 to clear the consignment. He sold 90 units to wholesaler at 10% profit. Wholesaler incurred indirect fixed overhead of taka 15,000 in a tax period in which he sold 90 units of electric bike.

As a pricing policy, he aims to recover the fixed overhead from margin charged to retail. Wholesale margin is 10% on his sale to retailer. Retailer sold his entire stock of 90 units in one tax period. He engaged a technician at monthly salary of taka 5,000/= (direct cost) to service the new electric bike. Retailer's direct cost including technician salary amount to taka 50,000/=. Retailer margin is 15%.

Exchange rate Taka 80 to a US dollar.

The wholesaler maintains full statutory VAT records and operates on full VAT system. Wholesaler has 10 units unsold stock of electric bike purchase. In one later evening, his shop got fire fully damaging (consider nothing recoverable) the entire stock of electric bike. Wholesaler approached you for legal advice what to do under the circumstances.

Wholesaler's indirect fixed overhead taka 15,000/= include estd taka 2000/= insurance cover (including 15% VAT), taka 3000/= for electricity (including VAT 5%) and taka 10000/= (including VAT 15%) paid to part timer CA application level student to provide bookkeeping support. This wholesaler can take rebate of input VAT in the product cost but he is not sure if he can claim rebate of VAT he paid on the indirect expenses of taka 15,000/=.

#### **Requirements:**

- i. Compute VAT to be borne by consumer for the stock of electric bike actually sold by retailer **[Marks: 10]**
- ii. Can wholesaler claim rebate of the input VAT included in damaged stock? Describe procedure in ref to the applicable provisions of the VAT law to deal with electric bike stock is damaged by fire. **[Marks: 5]**

### **Answer to the Question No. 6(a):**

#### **Notes for discussion at the meeting with the CFO of PQ Ltd.**

Consequence of entering into a transaction with a registered person who does not issue a valid VAT invoice (Mushak-11)



According to Section 37 (2) of the VAT Act, 1991, the following activities, inter alia, will be treated as offence, if any person:

- fails to issue a VAT invoice or renders a fallacious VAT invoice from the perspective of material information;
- receives goods or services without VAT invoice despite the recipient is a VAT registered person;
- engages himself in receiving or acquiring possession of goods or entering into transactions though he knows or he has reason to believe that VAT or, where applicable, VAT and SD payable on such goods has been evaded; or
- evades or attempts to evade VAT or SD by any other means;
- does or abates in doing anything specified in clauses from (ka) to (to) of Section 37 (2) of the VAT Act, 1991.

In the event that the aforementioned offences result in evasion of VAT, the said person shall be liable to a monetary penalty which shall be not less than 50% and not more than 100% of the amount of VAT so evaded. For the offences set forth in Section 37 (2) of the VAT Act, 1991, which are considered as irregularities other than evasion of revenue, the said person shall be liable to a monetary penalty of not less than Tk. 20,000/= and not more than Tk. 50,000/=.

Section 37 (6) of the VAT Act, 1991, provides that any person who is convicted in the Court of Special Judge for the offences set forth in Section 37 (2) of the VAT Act, 1991, shall be liable to imprisonment for a term which shall be not less than 3 months and not more than 2 years or a pecuniary penalty which shall be not less than 50% and not more than 100% of the amount of VAT payable or both.

In accordance with Rule 35 of the VAT Rules, 1991, any registered person who contravenes any provision of the VAT rules shall be liable to a pecuniary penalty which shall be not less than 50% and not more than 100% of the amount of VAT payable on relevant supply of goods or rendering of services and the said goods or services (where applicable) related to such contravention shall be confiscated in favor of the government.

Furthermore, VAT authority may impose a penalty of not more than Tk. 10,000/= and not less than Tk. 5,000/= under Rule 35 of the VAT Rules, 1991, for violation of the VAT Rules, 1991, if the infringement does not result in evasion of VAT.

In light of the above, it is obvious that there is no scope in VAT laws to do transaction with a person who/which does not provide a valid VAT invoice (Mushak-11). Deduction of VAT at source will not discharge the service recipient from the obligation to enter into transaction with a VAT compliant counterpart.

**Answer to the Question No. 6(b)(i):**

**Importer Stage - Computation of VAT**

	<u>Check</u>	<u>Amount(Taka)</u>
Price including VAT 100x80x100		800,000.00
[VAT on import included in the price]	104,347.83	104,347.83
Price Excluding VAT - 100 units		695,652.17
ADD: C&F Charges		50,000.00
[promotional cost 1000 tk per unit is not product cost]		
Total cost excluding VAT - 100 units		745,652.17
ADD: Margin 10%		74,565.217
Value Addition	124,565.22	
		820,217.39
VAT on Value Addition	18,684.78	



VAT on import	104,347.83	15%	123,032.61	<b>Output VAT</b>
Price to Wholesale including VAT			943,250.00	
<u>Wholesaler Stage - Computation of VAT</u>				
Cost of purchase -- 100 units			943,250.00	
Less: Input VAT for 100 units (Cost)*(3/23)	123,032.61		123,032.61	
Net cost of goods available(100 pcs)			820,217.39	
Total cost for 100 units excluding input VAT			<b>820,217.39</b>	
Total cost for 90 units excluding input VAT			<b>738,195.65</b>	
ADD: Margin at 10% on 90 units			73,819.57	
Selling price excluding VAT -- 90 units			812,015.22	

[Total value addition at wholesaler]

VAT on value addition	-			
Input VAT -- prop on 90 units	110,729.35	14%	110,729.35	<b>Output VAT</b>
PRICE TO RETAILER			<b>922,744.57</b>	

Retailer Stage - Computation of VAT

Cost of purchase - 90 units			922,744.57	
Less: Input VAT for 90 units (Cost)*(3/23)	120,357.99		120,357.99	
Net cost of goods available (90 pcs)			802,386.58	
ADD: Direct cost for 90 units			50,000.00	
Total cost for 90 units excluding input VAT			852,386.58	
ADD: Margin at 15%			127,857.99	
Selling price excluding VAT of 90units			980,244.57	

Total value addition at Retailer 177,857.99

VAT on Value Addition	26,678.70			
<b>Input VAT</b>	120,357.99	15%	147,036.68	<b>Output VAT</b>
PRICE TO CONSUMER			<b>1,127,281.25</b>	
Consumer cost per unit			12,525	

	Importer 100	Wholesaler 90	Retailer 90	Consumer 90
Output VAT	123,032.61	110,729.35	147,036.68	
Less: Input VAT	-	110,729.35	120,357.99	
NET VAT	123,032.61	-	26,678.70	
<b>NET VAT for 90 units</b>	<b>110,729.35</b>	<b>-</b>	<b>26,678.70</b>	<b>137,408.05</b>
Total VAT amount consumers pay for 90 units				<b>137,408.05</b>
Consumer Price per unit				12,525
VAT in consumer price per unit				1,633.74
				90
Total amount of VAT for 90 units sale				<b>147,036.68</b>



**Answer to the Question No. 6(b)(ii):**

VAT Rule 41 applies to deal with the manner how to dispose damaged goods in possession of the assessee. The assessee should do police station record of the fire incident. The procedures under VAT law are as follows:

- Wholesaler shall apply to local VAT circle using the Form VAT-27 within 24 hours of the incident of fire duly detailing the damages resulted from the fire.
- He will coordinate with local VAT circle to visit the shop premises within three days to assess the probable output VAT connected with the damaged stock and, at the same time, the VAT officer shall forward the application to Division Office for approval with his recommendation as to how to dispose the damaged stock.
- Division office shall make his decision within 30 days on how to dispose the damaged goods. He will order for cancelling the input rebate on the purchase of the damaged stock and make the adjustment of the same in the assessee's current account and in the next period monthly return.
- Wholesaler shall act according to the order of Division Office.



## Suggested Answer

### Taxation II

May-June 2018

#### Question No.1

XYZ Ltd. ("Company") is a private limited company and ABC & Co., Chartered Accountants, is its tax consultant. You are a partner of ABC & Co., Chartered Accountants, and overseeing the tax issues of the Company. Management of XYZ Ltd. is motivated to reduce earnings by a material amount to minimize tax. Now they are thinking how the minimization of tax can be done. Someone threw an idea that profit of the Company may be shifted to its sister concern by purchasing goods from that concern at a higher price than the prevailing market price. The sister concern has been enjoying tax holiday benefit and does not have any common sponsor director. Management of XYZ Ltd. shared the idea with you and requested to get ready for handling the tax assessment for the relevant period.

#### Requirements

- (I) How will you deal with the unethical request made by the management of the Company? 5
- (II) Discuss threats to independence if taxation service is provided to an audit client. 5

#### Answer to Question No. 1 (i)

In respect of the situation stated in the question paper, I will take the following steps as regards the unethical request from the Company:

1. I will put my tax advice on record, either in the form of a letter or in a memorandum, while providing the requested opinions on reduction of earnings to minimize tax.
2. I will let the management of the Company know the consequences of error/omission/concealment of income as provided in the income tax laws for the time being in force and will recommend that appropriate disclosure be made to the revenue authorities.
3. If the Company does not accept my suggestion, I will inform them that it is not possible to act for them in connection with the evasion of tax or pertinent return of income.
4. If required, I will bring the problem to the notice of the next higher reviewing level such as the Executive Committee, Board of Directors or Shareholders.
5. I may discuss and advice this issue on a confidential basis with a senior and independent advisor to obtain an understanding of other possible courses of action.
6. If the ethical conflict still exists, I will consider whether continued association with XYZ Ltd. in any capacity is consistent with professional ethics and as a last resort I may have no other recourse on the tax evasion issue than to terminate the engagement and to submit an information memorandum to an appropriate representative of the Company.
7. I will adhere to the code of ethics applicable to a professional accountant in public practice.

#### Answer to Question No. 1 (ii)

Where taxation services are provided to an audit client, the quality of audit may be called into question based on the accusation that the auditors have allowed inappropriate accounting treatments because their independence has been compromised, either because they have become too close to the client they are auditing (the "familiarity" threat) or, more directly, because their objectivity is challenged by over-reliance



on income from a single source. The auditors should not provide tax consultancy services to audit clients if that would present a threat to independence for which no adequate safeguards are available.

Professional accountants who have expertise in taxation matters may help to establish confidence and efficiency in, and the fair application of, the tax system. When a firm renders taxation service for an audit client such as computation of tax, preparation of tax return and filing tax return to the tax authority or tax planning, this would not create a significant threat to independence because such services are generally subject to external review, for example by a tax authority.

In many jurisdictions, the firm may be asked to provide taxation services to an audit client. Taxation services comprise a broad range of services, including compliance, planning, provision of formal taxation opinions and assistance in the resolution of tax disputes. Such assignments are generally not seen to create threats to independence.

## Question No. 2

Write the grounds of appeal against the following assessment orders done by the DCT

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1. Sale proceeds of a land Tk.79,000,000 deposited in the bank account of a company. The land was in the name of the Chairman of the company, but the land was not shown in the wealth statement of the Chairman's personal tax file. The company claimed the amount as loan from chairman. But the DCT added it as income of the company, and the same was upheld by the learned CT (Appeals).
2. The DCT estimates Gross profit @ 36% for last year in place of shown GP @ 25%, because the company failed to produce all relevant vouchers of raw materials and factory overhead, and thus added Tk.40,500,000 with total income.
3. The DCT computed tax liability of Tk.230,000,000. Advance tax deposited by the company amounted to Tk.7,800,000 against income tax provision of Tk.10,000,000. The DCT charged simple interest because Tk.7,800,000 is less than 75% of the assessed tax.



## Answer to Question No. 2

### GROUND OF APPEAL

#### **GROUND 1**

On the facts and in the circumstances of the case, the appeal order passed by the learned Commissioner of Taxes (Appeals), Taxes Appeal Zone-X, Dhaka on -----, in the ITA No 61/Taxes Zone X/20XX-20YY, Dhaka, in respect of the assessment order made u/s 82BB(3)/83(2) was inappropriate and unlawful as the learned CT (Appeals) did not adjudicate the legal issue as per provision of section 156(3) of the Income Tax Ordinance, 1984.

#### **GROUND 2**

On the facts and in the circumstances of the case, the appellant having complied with the method of accounting and submitted Tax Return along with the Audited Accounts for the year, duly certified by the Chartered Accountants fulfilling the legal obligation as prescribed under section 35(1) & 35(3) of the Ordinance. The learned DCT was not authorized to compute the appellant's income upon the basis and in the manner as determined by him disregarding the method of accounting employed and the Audited Accounts maintained by the appellant. The learned CT (Appeals) did not adjudicate this issue in his appeal order, hence the order is not sustainable in the eye of law.

#### **GROUND 3**

On the facts and in the circumstances of the case, the learned CT (Appeals) was not justified to maintain the learned DCT's inclusion of TK. 79,000,000 as income of the company. This amount was deposited in the bank account of the company as a loan from the Chairman. The source of lending money is sale of a land property which was owned by him. By adding this to the income of the company, the learned DCT as well as the learned CT (Appeals) violated the provision of section 30A and 35(3) of the IT Ordinance, 1984 and hence not sustainable in the eye of law.

#### **GROUND 4**

On the facts and in the circumstances of the case, the learned CT (Appeals) was not justified to maintain the learned DCT's estimation of the sales by adding up Tk. 40,500,000 with total income ignoring disclosed Sales. Because, sales of such business are supported by books of accounts and corroborate evidences. Therefore, estimating Gross profit @ 36% on the basis of past record ignoring shown GP rate 25% cannot be the basis where books of accounts are well maintained and every year's accounts are distinct and separate. By doing so, the learned DCT as well as the learned CT (Appeals) violated the provision of section 30A and 35(3) of the IT Ordinance, hence not sustainable in the eye of law.

#### **GROUND 5**

On the facts and in the circumstances of the case, the learned CT (Appeals) was not justified to compute the tax liability of TK. 230,000,000 against the tax liability of TK. 10,000,000 against which the advance tax has been paid TK. 7,800,000. This advance tax paid TK. 7,800,000 meets 75% of the tax as per return. The computation of tax liability TK. 230,000,000 by the DCT is erroneous and unlawful. Hence, imposition of simple interest is not tenable in the eye of law.

### **Question No. 3**

A wholly-owned subsidiary of 'Energy Investors GmbH' of Netherlands, 'Energy Service India Ltd. (ESIL)' is an Indian power sector consulting company. ESIL operates a Branch in Bangladesh. ESIL executed an agreement with BPDB to provide certain consultancy services at Moheshkhali power project of BPDB in association with a local company, 'Bangladesh Engineers Ltd.' (BEL). ESIL is the lead member. This is not a consortium, however.



The source of fund for the BPDB power project consultancy payment is GOB. This is a three year contract and the payments shall be made time-to-time upon delivery of the selected components of services according to the terms of the BPDB-ESIL-BEL Agreement. BEL shall provide local consultants and local coordination supports. Two components of payments – foreign ((total USD 1.50 million) and local (Taka 30.75 million). PDB shall make direct payments of both components to the lead member (foreign part to ESIL overseas bank and local part to ESIL Branch account in Dhaka), all upon invoices time-to-time approved by PD.

Local payments component is to cover up local operating expenses of the project service including foreign engineers local maintenance in Bangladesh, the payments under ESIL-BEL contract. ESIL executed a side contract with BEL for total payments of taka 2.50 crore. Under this side contract, BEL shall supply local engineers and shall provide co-ordination services for delivery of BPDB-ESIL-BEL contract assignments. To deliver the services on this BPDB power project, ESIL shall move logistics equipment from India to Bangladesh which shall be taken back to India after the project delivery. ESIL shall send selected foreign engineers from India and Netherlands to work throughout the project period, under work permit issued by BIDA.

Bangladesh-India have DTAA. As non-resident assessee and under Treaty override concept, ESIL approached you for opinion on all areas of tax and VAT implications in its engagement into BPDB consultancy under BPDB-ESIL-BEL agreement including whether ESIL requires to pay tax in Bangladesh on its foreign components of the contract price as the same shall be received out of Bangladesh.

ESIL branch probable future engagement in a private sector captive power project: Energy Investors GmbH of Netherlands made an investment in a private sector JV company in Khulna for 21% of equity. The JV company shall set up a 100 MW power project. ESIL Branch is in negotiation with the JV company to provide consultancy for its 100MW project. The branch management seeks your specific opinion on transfer pricing implication, if any arising, on such consultancy assignment.

ESIL consultancy project is underway: Consider that ESIL consultancy project under BPDB-ESIL-BEL agreement is fully underway. ESIL Branch prepared accounts for the period ended 30.06.2017 showing a profit of BDT 50,00,000/= . Examination of ESIL Branch records provide following additional information with respect to the reported income year:

**Paid/Charged to the Revenue, among others:**

	<b><u>BDT</u></b>
Paid to BEL under ESIL-BEL contract	-100,00,000
Expat engineers per diem	250,000
Expat engineers accommodation rent	250,000
Tax on expat engineers salary (Resident, tax cleared per Work Permit)	5,00,000
Paid for furniture and interior for office	10,00,000
Paid WESTIN hotel bill a/c H.O. management visits	5,00,000
Remitted to Head Office	10,00,000
Head Office Expense Debit Note from ESIL	8,50,000

(Debit Note includes Salaries to Indian BPDB project expat engineers BDT 3,00,000/= which are outside the BIDA work permit.)

**Requirements:**

- (a) Write your views for ESIL for its engagement in BPDB-ESIL-BEL agreement covering: 12
- Whether ESIL requires to pay tax in Bangladesh being a non-resident and under Treaty override.
  - Can ESIL avoid VAT on importation of logistics equipment from India under specified VAT section?
  - ESIL branch specific tax and VAT Withholding obligation.



- iv) BEL Tax and VAT implication including views on whether ESIL payments to BEL, which are originating from single source (PDB) under BPDB-ESIL-BEL agreement shall be taxable again in BEL.
- (b) Provide your views with detailed reasons in reference to the applicable provisions of IT Ordinance on the 'transfer pricing implication', if any arising, in the event ESIL branch takes up the in-talk consultancy of 100MW JV power project in Khulna. 5
- (c) Compute total income of ESIL Branch for Assessment Year 2017-18. 8

**Answer to Question No. 3(a)**

- (i) ESIL branch is a tax non-resident company assessee in Bangladesh. Scope of total income for taxation of a non-resident cover income under BPDB-ESIL-BEL agreement as per section 17 and 18 of ITO, 1984. Under Treaty override, a non-resident can pay tax in its own country if the payment is received out of Bangladesh but that is not possible if the non-resident company operates a PE in the country where income originates. Moreover, by establishing the branch, ESIL is construed as operating a Permanent Establishment (PE) in Bangladesh. If entity of a contracting country (here India) operates a PE in other contracting country (here, Bangladesh), the income tax stands payable in the other contracting country (here, Bangladesh). This is the standard mandate of Bangladesh-India DTAA. Therefore, tax on ESIL foreign part revenue received in India is duly payable in Bangladesh. In pursuance of Section 95, 96, ESIL Branch shall be the representative of ESIL to discharge tax liabilities under BPDB-ESIL-BEL Agreement. BPDB shall deduct tax when paying foreign part and local part. ESIL shall make the L/C for foreign component payment in net.
- (ii) Import of logistics equipment by ESIL Branch shall attract VAT payments on import stage. ESIL Branch can resort to Section 66 of VAT Act to seek permission from NBR to clear the equipment without paying VAT on the condition that the logistics equipment shall be subsequently exported back to India on furnishing a bank guarantee.
- (iii) Jobs under BPDB-ESIL-BEL shall be 'execution of contract' u/s 52. ESIL Branch shall be a withholding tax authority for payments for procurement. It will deposit the deducted tax within 2nd week of the following month of deduction and will also file monthly withholding tax statement by 20th of the following month. It will also have to file half-yearly withholding tax return. ESIL Branch shall also comply with tax withholding function on its payment to BEL time-to-time as a distinct entity under ESIL-BEL Contract, although BEL is a party in the BPDB agreement. The Branch shall also comply with tax withholding function on its payment of salaries and fees to the foreign expats. ESIL shall file its own tax return for own income under BPDB-ESIL-BEL agreement. ESIL Branch shall account for VAT on its payments made for procurement and services under applicable VAT SRO.
- (iv) BEL is a party to the BPDB agreement but it's a distinct entity. ESIL-BEL is not a legalized Consortium, nor does the consortium undertake this project. Although single source of income (contractual payments by BPDB) is coming from BPDB to ESIL, part of which ESIL pays to BEL, the BEL shall still be liable to tax and VAT as an ordinary assessee for its payment from ESIL and it will be subject to tax and VAT withholding obligations for all its payments made for, BEL shall treat the payments as consultancy fees for withholding u/s 52AA. BEL shall file its own tax return for its own income under BPDB-ESIL-BEL agreement on procurement and services under ESIL-BEL contract. BEL supplies local consultants to work in consultancy project under BPDB-ESIL-BEL agreement. If the local consultants are in BEL payroll, BEL shall withhold tax u/s 50 and it hires contractual consultants then u/s 52AA.



### Answer to Question No. 3(b)

Energy Services India Ltd. is the wholly-owned subsidiary of Energy Investors GmbH of Netherlands. This Dutch company is the 21% shareholder of JV in Khulna which is going to set up a 100MW power project. If ESIL branch engages into consultancy services with private JV, it will make taxable earnings and the question is whether such transaction shall have TP implication. Two key questions are here – whether ESIL is an AE and whether the transaction between ESIL and private JV is an international transaction. ESIL branch is a non-resident and JV company is a resident. To be 'international transaction', the transaction must be between two AEs either or both are non-resident. That the ESIL branch is a non-resident meets this condition. Now the 2nd question is whether ESIL and Private JV are AEs. ESIL branch is indirectly owned by the Dutch company through ESIL and the same Dutch company participates in the 'capital' of private JV. In pursuance of section 107A(2)(a) and by virtue of Energy Investors common participation in both, ESIL and Private JV feature to be Associated Enterprise(AEs). So, transaction of ESIL branch with the private JV shall have TP implication.

### Answer to Question No. 3(c)

#### **Computation of Total Income and Tax Liability**

Assessee: Energy Services India Ltd. Branch

NON-RESIDENT-PE

Income Year ended June 30, 2017. Assessment Year 2017-18:

	<u>TAKA</u>	<u>TAKA</u>
Net Profit as per accounts – Disclosed		5,000,000
Add: Charged H.O. Debit Note amount for separate consideration		850,000
<b>Less:</b>		
Maximum Limit for Head Office u/s 30(g)	500,000	5,85,000
Actual Head Office expense reported	<u>850,000</u>	
Maximum Allowable H.O. Expense	500,000	<u>500,000</u>
		5,350,000
		Adjusted N.P.
Add: Expenses charged to revenue but rank to be disallowed:		
[1] Furniture and interior payments for office are capital items	1,000,000	
[2] WESTIN hotel bill, should be part of H.O. expense, not local	500,000	
[3] Remittance to Head Office, should be part of dividend u/s 2(26)(dd)	1,000,000	
		<u>2,500,000</u>
	Total Income	<u>7,850,000</u>

#### **NOTE**

[1] Service of ESIL under BPDB-ESIL-BEL agreement and ESIL-BEL contract are both 'Execution of Contract' u/s 52

Tax withheld by BPDB on payment to ESIL u/s 52 and Rule 16 financial discharge u/s 82C if sum total of such minimum tax is equal or more than normal tax on total income.

[2] Amount paid to BEL under ESIL-BEL contract are cost of ESIL BPDB project as per BEPD-ESIL-BEL agreement, hence allowed.

[3] Expat engineers per diem, accommodation rent are allowable expense like salaries.

Tax on expat engineers are as per term on tax-paid salaries. Therefore, tax become part of salary to engineers, hence allowed



**Question No. 4**

Mr. A has been doing business from 01 January 2017 upon establishing a sole-proprietorship. Before starting own business, Mr. A was partner of a firm from 01 July 2016 to 31 December 2016. The assets and liabilities of Mr. A as of 30 June 2016 is as follows:

Particulars of Assets & Liabilities	Taka
<b>Business Capital:</b>	
Business capital	1,819,147
Director's shareholdings in limited companies	779,100
Non-agricultural property	2,279,800
Advance made for non-agricultural property	5,200,000
<b>Financial assets value:</b>	
Share, debenture etc.	1,342,121
Other financial assets (e.g. Life insurance)	767,201
Motor car(s)	347,667
Gold, diamond, gems and other items (wedding gift 200 gram gold, value unknown)	0
Furniture, equipment and electronic items	50,000
Other assets of significant value (share money deposit in a private limited company)	125,000
<b>Cash and fund outside business</b>	
Banks, cards and other electronic cash	3,206,365
<b>Total Assets</b>	<b>15,916,401</b>
Borrowing from banks and other financial institutions	1,451,493
<b>Total Liabilities</b>	<b>1,451,493</b>
<b>Net Wealth</b>	<b>14,464,908</b>

Mr. A appointed you for preparation of his return of income for the assessment year 2017-2018 and provided the following information:

Information relating to sole-proprietorship:	Taka
Investment in sole-proprietorship	2,000,000
Drawings from sole-proprietorship (excluding tax adjustment of Tk. 400,700)	1,210,108
Income from sole-proprietorship	1,213,368

Information relating to partnership firm:	Taka
Income from partnership firm (including tax portion of Tk. 2,123,299)	5,613,821
Drawings from partnership firm	3,490,522
Capital withdrawal from partnership firm	819,147

Information relating to new investments:	Taka
Purchase of new car	3,300,000
Life insurance premium	81,272
Application money for National Housing Authority flat	250,000
Purchase price of land (Tk. 1,200,000 not yet paid)	1,600,000



Information relating to other income:	Taka
Interest income	17,747
Gain from transfer of baina land	2,000,000
Dividend income	36,212
Sale of vehicle (cost value Tk 347,667)	630,000
Sale of land (cost value Tk 79,800)	538,000

Other related information:	Taka
Loss from sale of shares of listed companies & charges	216,916
Refund of share money deposit	125,000
Sale of shares of private limited company at face value	84,100
Family Expenditure (including medical, housing, interest, transportation, children education, foreign travel, tax except proprietorship and firm, festival and special expenses)	1,784,499
Gift to wife through banking channel	2,700,000
Repayment of bank loan	1,451,493

Information relating to payment of tax (except proprietorship and partnership):	Taka
AIT paid for new car registration	30,000
AIT paid for renewal of car fitness	15,000
TDS u/s 53H	5,380
TDS from bank interest	2,638
TDS from dividend	5,173
Tax refundable for AY 2016-2017	263,782

After several meetings between you and Mr. A, it was confirmed that Mr. A did not make any other transaction during the period from 01 July 2016 to 30 June 2017 except those furnished above.

#### Requirements:

As a tax consultant of Mr. A, you are required to compute the following for the assessment year 2017-2018:

- |   |    |
|---|----|
| (i) Tax exempted income                   | 2  |
| (ii) Tax liability                        | 9  |
| (iii) Statement of assets and liabilities | 14 |

#### Answer to Question No. 4

##### (i) Tax exempted income

Particulars	Sale Value	Cost Value	Exempted Income
	Tk.	Tk.	Tk.
Gain on Private Vehicle sale exempted as per section 2 (15)	630,000	347,667	282,333
Cash Dividend as per 6th Schedule (Part-A) Para-11A			25,000
<b>Total</b>			<b>307,333</b>



(ii) Tax liability

Name: Mr. A

Tax Identification Number:

INCOME YEAR 2016-17

ASSESSMENT YEAR 2017-18

INCOME TAX COMPUTATION

Total Income (Taka)

[1] Income from Sole-proprietorship and Partnership Firm [12,13,368+56,13,821]

[2] Income from land sale and other Source Head [5,38,000+17,747+11,212]

Total Income including capital gain from land sale [Final tax settlement u/s 82C]

68,27,189	
5,66,959	
<b>73,94,148</b>	

		Rate	Tax
First Tk.	250,000	0%	-
Next Tk.	400,000	10%	40,000
Next Tk.	500,000	15%	75,000
Next Tk.	600,000	20%	120,000
Next Tk.	30,00,000	25%	750,000
Balance Tk. [except capital gain]	21,06,148	30%	631,845
Total Tax Payable excluding gain tax	<b>A</b>		<b>16,16,845</b>

**Investment Allowance & Tax rebate**

Investment made during the year at LIP

Maximum Investment Limit for rebate calculation [Lower

of 15m or 25% of total Income excluding 82C income]

Eligible amount for Investment

Tax Rebate on Investment [81,272x15%]

81,272

17,14,037

81,272

12,191

12,191

**16,04,654**

Net Income Tax Payable

**B**  
**C=A-B**

Income Tax u/s 82 C (Income from Land Sale Tk. 5,38,000)

**D**

**Net Income Tax Payable**

**E=C+D**

**16,10,034**

Tax deducted at source:

[1] Tax rebate on taxed income from firm [16,10,034x56,13,821/73,94,148]

12,22,378

[2] Tax paid by sole-proprietorship

400,700

[3] AIT paid for new car registration

30,000

[4] AIT paid for renewal of car fitness

15,000

[5] AIT paid u/s 53H

5,380

[6] TDS from bank interest

2,638

[7] TDS from cash dividend

5,173

Total Tax Paid

16,81,269

Refundable

**F**  
**G=E-F**

**71,235**



### (iii) Statement of assets and liabilities

#### CASH FLOW STATEMENT FOR THE ASSESSMENT YEAR 2017-18

		Taka
Opening Balance of Cash & Bank		3,206,365
<b><u>A: Inflow from taxable source of income:</u></b>		
From interest, cash dividend and cash received from biana nama Tk. 20,00,000 though it is not income rather liability	2,053,959	
	2,053,959	
<b><u>B: Inflow from non-taxable source of income:</u></b>		
Drawings from partnership firm	3,490,522	
Capital withdrawal from partnership firm	819,147	
Drawings from sole-proprietorship	1,210,108	
Sale of vehicle (capital asset)	630,000	
Refund of share money deposit	125,000	
Sale of land (sec 53H)	538,000	
Sale of shares of private limited company	84,100	
Sub-total (A+B)	8,950,836	
<b><u>C: Outflow relating to Expenditures:</u></b>		
Family Expenditure (including medical, housing, interest, transportation, children education, foreign travel, tax except proprietorship and firm, festival and special expenses)	1,784,499	
<b><u>D: Outflow relating to Investment (for rebate purpose):</u></b>		
Life insurance premium	81,272	
	81,272	
<b><u>E: Outflow relating to addition of assets or settlement of liabilities:</u></b>		
	10,101,493	
Application Money-NHA Flat	250,000	
Payment against purchase of land	400,000	
Gift to wife	2,700,000	
Purchase of new car	3,300,000	
Investment in sole-proprietorship	2,000,000	
Loan repayment-principal	1,451,493	
Sub-total (C+D+E)	11,967,264	
Net Increase/(decrease) in Cash (A+B-C-D-E)		(3,016,428)
Closing Balance of Cash & Bank		189,937



**CASH FLOW STATEMENT  
FOR THE ASSESSMENT YEAR 2017-18**

	Balance as on 01.07.2016	Addition	Encased/	Balance as on 30.06.2017
Particulars of Assets & Liabilities	Taka	During the FY Taka	Retired Taka	Taka
Business Capital:				
Business capital	1,819,147	6,703,890	5,920,477	2,602,560
Director's shareholdings in limited companies	779,100	-	84,100	695,000
Non-agricultural property	2,279,800	1,600,000	79,800	3,800,000
Advance made for non-agricultural property	5,200,000	250,000	-	5,450,000
Financial assets value:				
Share, debenture etc.	1,342,121	-	216,916	1,125,205
Other financial assets (e.g. Life insurance)	767,201	81,272		848,473
Motor car(s)	347,667	3,300,000	347,667	3,300,000
Gold, diamond, gems and other items (wedding gift 200 gram gold, value unknown)				-
Furniture, equipment and electronic items	50,000			50,000
Other assets of significant value (share money deposit in a private limited company)	125,000		125,000	-
Cash and fund outside business				-
Banks, cards and other electronic cash	3,206,365	(3,016,428)		189,937
<b>Total Assets</b>	<b>15,916,401</b>	<b>8,918,734</b>	<b>6,773,960</b>	<b>18,061,175</b>
Borrowing from banks and other financial institutions	1,451,493		1,451,493	-
Other loans (Payable to land seller)		12,00,000		1,200,000
Baina nama		1,200,000		20,00,000
<b>Total Liabilities</b>	<b>1,451,493</b>	<b>32,00,000</b>	<b>1,451,493</b>	<b>3,200,000</b>
<b>Net Wealth</b>	<b>14,464,908</b>	<b>5,718,734</b>	<b>5,322,467</b>	<b>16,861,175</b>

**Question No. 5**

ABC Inc., an Australian Company, holds 45% of equity in XYZ Ltd., a Bangladeshi Company. XYZ is engaged in development of software and maintenance of the same for customers across the globe. Its clientele includes ABC Inc. also.

During the financial year 2016-2017, XYZ Ltd. had spent 2400 man hours for developing and maintaining software for ABC Inc. with each hour being billed at Tk. 1300. Cost incurred by XYZ Ltd. for executing work for ABC Ltd. amounts to Tk. 2,000,000. XYZ Ltd. had also undertaken developing software for BD Software Ltd., for which XYZ Ltd. had billed at Tk. 2700 per man hour. The persons working for BD Software Ltd. and ABC Inc. were part of the same team and were of matching credentials and caliber. XYZ Ltd. made a gross profit of 60% on BD Software Ltd. XYZ Ltd.'s transactions with ABC Inc. are comparable to transactions with BD Software Ltd., subject to the following differences:

- ABC Inc. gives technical knowhow support to XYZ Ltd. which can be valued at 8% of normal gross profit. BD Software Ltd. does not provide any such support.



- Since the work for ABC Inc. involved huge number of man hours, a quantity discount of normal gross profit was given. No such discount was offered to BD Software Ltd.
- XYZ Ltd. had offered 90 days credit to ABC Inc., the cost of which is measured at 2% of the normal billing rate.

**Requirement:**

Compute arm's length price as per cost plus method and the amount of increase in total income of XYZ Ltd 10



### Answer to Question No. 5

Computation of Arm's Length Price as per Cost Plus Method

#### Computation of Arm's Length Price as per Cost Plus Method

Particulars	Taka	Taka
Gross Profit Mark up in case of BD Software Ltd. (an unrelated party)	60%	
<b>Less: Differences to be adjusted</b>		
* Value of Technical Knowhow (8% of 60%)	4.8%	
* Quantity Discount to BD Software Ltd (14% of 60%)	8.4%	
	46.8%	
<b>Add: Cost of credit to ABC Inc. ( an associated enterprises)</b>	2%	
<b>Arm Length gross profit mark up</b>	<b>48.8%</b>	
Cost incurred by XYZ Ltd. for executing ABC Inc.'s work (100%-48.8%=51.2%)		2,000,000
Add: Adjusted gross profit (2,000,000*48.8%/51.2%)		1,906,250
<b>Arm's length billed value</b>		<b>3,906,250</b>
Less: Actual Billed income in the case of ABC Inc. (1300*2400)		3,120,000
Total income of XYZ Ltd. to be increased by		786,250

### Question No. 6

- (a) A foreign company is planning to invest in Bangladesh. The company will build/purchase/lease infrastructure and allow the corporate customers to enjoy facility, utility and usefulness created thereby in exchange for money. On the basis of primary information collected by the employees concerned, VAT service code for such infrastructure facility service will be S099.20 (Other Miscellaneous Services). They are also aware that the service code S099.20 is subject to deduction of VAT at source. The company is thinking of claiming input VAT credit. The company is not clear how the output VAT would be presented in monthly VAT return as no deposit of output VAT on services rendered would be made by them into the government exchequer. They are confused how the adjustment would be made since the entire output VAT will be deducted at source by the customers. According to them, these issues will play a significant role in deciding whether the company will make investment in Bangladesh.

#### Requirements:

The company appointed you as their VAT adviser and requested you to prepare notes addressing the following:

- (i) Presentation of output VAT in monthly VAT return
- (ii) Claiming input VAT credit

4  
6



- (b) You are a Manager (VAT) of XYZ Ltd. ("Company") which is engaged in manufacturing of taxable goods. Upon securitizing the purchase related documents for the month of May 2018, you prepared the following summary:

Sl No.	Supplier of goods/ services	VAT Amount (Tk.)	Remarks
(i)	Security service provider	10,000/=	Invoice was raised on the letterhead of the service provider with required and correct information.
(ii)	Restaurant	5,000/=	Mushak-11 was issued with required and correct information.
(iii)	Manufacturer of Raw Materials	50,000/=	Mushak-11 was related to a new raw material which was not included in value declaration.
(iv)	Audit and Accounting Firm	15,000/=	Invoice was raised on the letterhead of the service provider with required and correct information.
(v)	Supplier of Generator	25,000/=	Mushak-11 was issued with required and correct information.
(vi)	Imported service	100,000/=	VAT deposited at the time of remittance through treasury challan which was found correct. This service was not included in value declaration.

**Requirement:**

Provide your observations on claim of input VAT rebate based on the aforementioned information.

10

**Answer to Question No. 6(a)**

Notes for discussion at the meeting with .....

(i) Presentation of output VAT in monthly VAT return

General Order No. 06/Mushak/2018 dated 07.06.2018 stipulates that the service provider who/which renders service to the VAT deducting authority shall write net sale of taxable goods or service and amount of applicable VAT in serial no. 1 of Form Mushak-19. Out of VAT payable mentioned in serial no. 1 of Form Mushak-19, the amount of VAT deductible at source should be written in first bracket. Total VAT payable should be written in serial no. 4 of Form Mushak-19 after excluding the amount of VAT deductible at source shown in bracket of serial no. 1 of the same Form. Upon receiving certificate in Form Mushak-12Kha, the service provider shall make entry in serial no. 19 of Form Mushak-19 during the same tax period of providing certificate by the service recipient or immediately following tax period. Form Mushak-12Kha and treasury challan received by the service provider shall be enclosed with the return. The amount of VDS for which certificate in Form Mushak-12Kha has not yet been received shall be recorded inside bracket of serial no. 19 of Form Mushak-19. The balance of VDS for which certificate in Form Mushak-12Kha is yet to receive should be derived by adding VAT deductible at source shown in bracket of serial no. 1 of the current return to the closing balance of VDS shown inside bracket of serial no. 19 in the previous return and subtracting the amount of VDS for which Form Mushak-12Kha has been received during this tax period. The VAT authority will get ready information about amount of VDS for which certificate in Form Mushak-12Kha is yet to receive from the number shown inside bracket of serial no. 19 of Form Mushak-19.



## (ii) Claiming input VAT credit

As the company would pay 15% VAT on infrastructure facility services, it would be eligible for claiming input VAT credit. For claiming such credit against its output VAT, the company will ensure compliance with the restrictive provisions of section 9(1) of the VAT Act, 1991, and will also follow the provisions of rule 19 of the VAT Rules, 1991. The VAT authority will scrutinize the monthly return and will cancel the claimed rebate if there is any illegal claim.

It is true that the company will not be able to make adjustment of input VAT credit against output VAT as the total amount of output VAT will be deducted at source by their corporate customers. However, the claimed input VAT credit will be accumulated each month.

As per section 19 (3) of the VAT Act, 1991, if the registration of a person is cancelled and if there is any tax or duty drawback or any other balance in the current account is due to him on the date of such cancellation, he shall be entitled to get refund of such balance or other balance as per the procedure determined by Rules, but the condition of claiming refund within 6 (six) months as contained in the proviso to Section 67 (1) of the VAT Act, 1991, shall not apply in this case. Section 67 of the VAT Act, 1991, provides that VAT or, where applicable, VAT and SD claimed to have been paid or over-paid due to negligence, error or misinterpretation or any other reason may be refunded in accordance with the procedure prescribed by Rules. Procedures relating to application for refund of VAT or, VAT and SD, as the case may be, under Section 67 of the VAT Act, 1991, have been set forth in Rule 34Ka of the VAT Rules, 1991. Rule 34Ka provides that a claim of refund shall have to be submitted in 3 (three) copies of Form TR-31 to the Divisional Officer concerned or the Commissioner of Custom House or such an officer not below the rank of an Assistant Commissioner empowered by him for this purpose. Provided that when Form TR-31 is not available on the spot while submitting the demand of refund, an application in plain white paper can be made and within 15 (fifteen) days of the application, the applicant shall have to regularize the same by properly filling in the Form and submitting it. Rule 34Ka (4) further provides that refund under rule 34Ka will not be granted where there is provision and scope to make adjustment of claimed refund in monthly VAT return or current account by the registered person.

### Answer to Question No. 6(b)

XYZ Ltd.

Observations on Claim of Input VAT Rebate  
for the month of May 2018

Sl No.	Supplier of goods/services	VAT Amount (Tk.)	Observations	Claimable Input VAT Rebate (Tk.)
(i)	Security service provider	10,000/=	Mushak-11 was not issued and hence claim of input VAT will not be allowed.	-
(ii)	Restaurant	5,000/=	VAT paid on services provided by restaurant is not eligible for claim of input VAT rebate.	-
(iii)	Manufacturer of Raw Materials	50,000/=	If input is not included in the value declaration of goods, related claim for input VAT will not be considered.	-
(iv)	Audit and Accounting Firm	15,000/=	80% of VAT paid on services provided by Audit and Accounting Firm will be considered for input VAT rebate.	12,000
(v)	Supplier of Generator	25,000/=	VAT paid on purchase of generator is not eligible for input VAT rebate.	-
(vi)	Imported service	100,000/=	If the imported service is not included in value declaration of the goods, relevant claim of input VAT rebate will not accepted.	-

**The End**